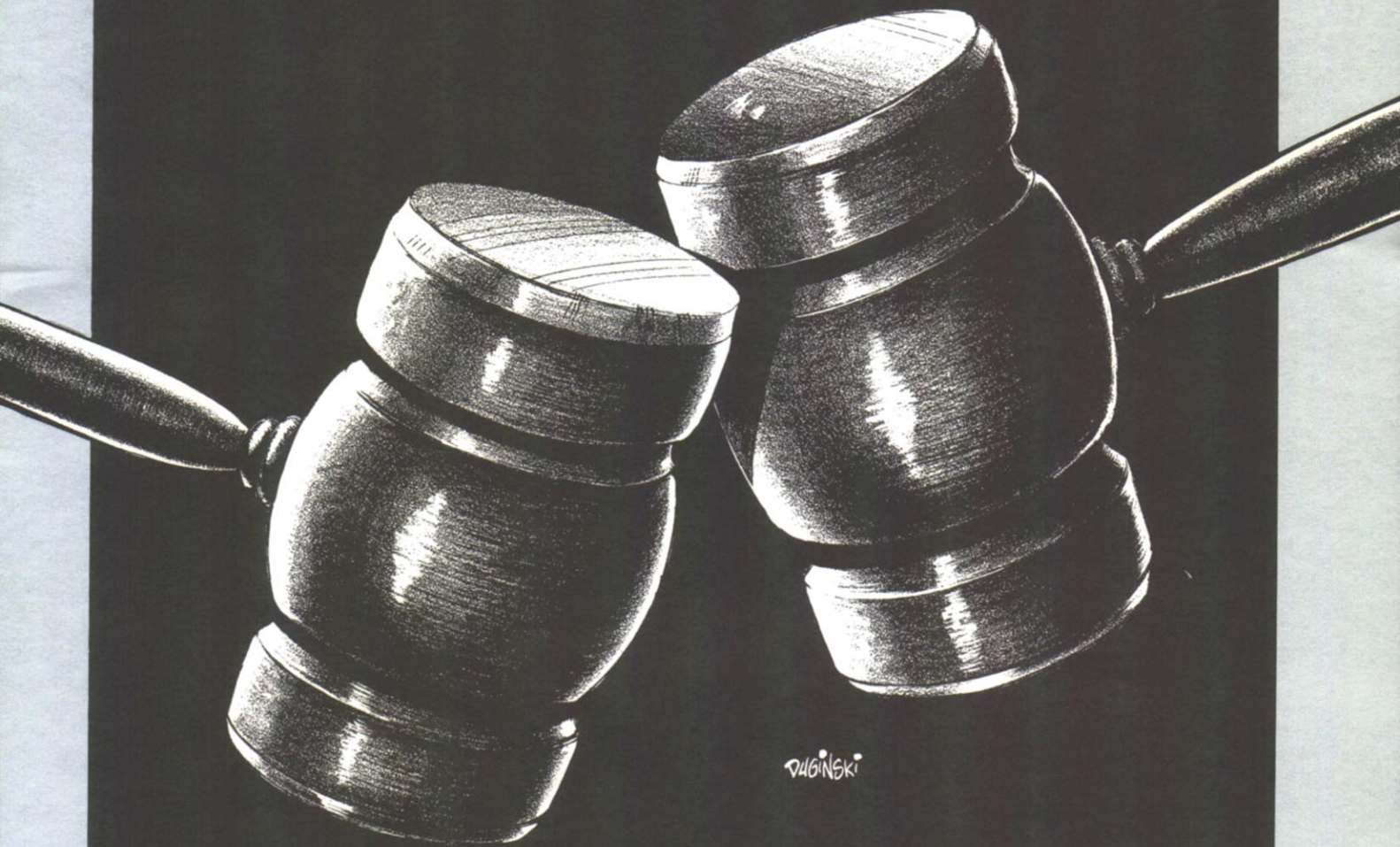
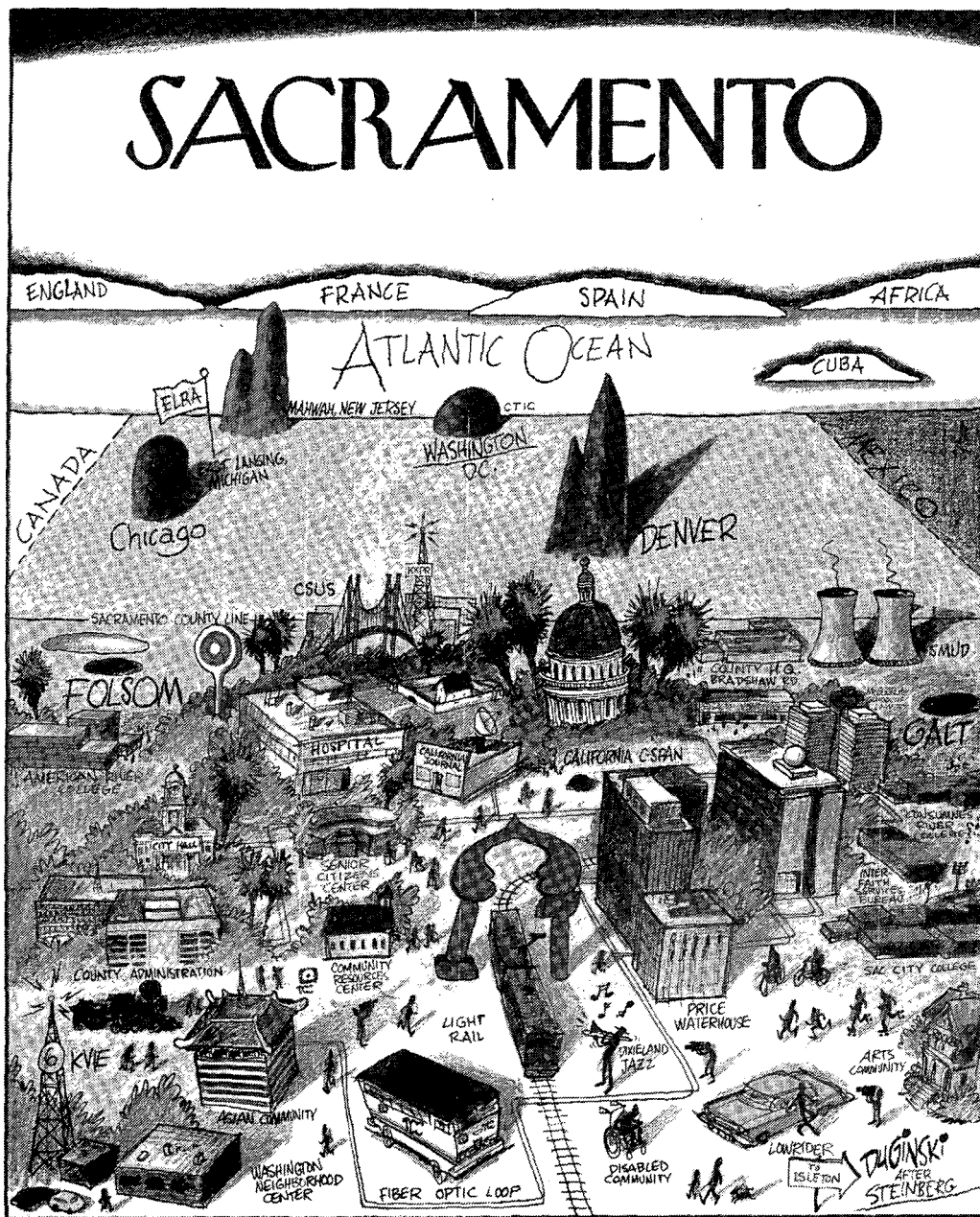


SPECIAL SECTION
November proposition analysis

Why controversy surrounds the Brown Supreme Court



Congressional race outlook
Those high-flying state pensions



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CONTENTS

Special section: Proposition pros and cons

In this issue, the California Journal provides background, analysis and arguments on the 15 ballot measures confronting voters in November. This eight-page special section is also available as a reprint.

Brown's crusading court 311

By K. Connie Kang

The state Supreme Court is more controversial than ever, and not all of its critics fit into the right-wing mold.

Congressional-race preview 317

By Ed Salzman

Even with a huge war chest, the Republicans are on the defensive in the battle for California's 45-seat delegation.

Two more hot ones

On the North Coast and in the new 43rd District, GOP congressional candidates are in trouble. Incumbent Don Clausen has to defend Reaganomics to unemployed voters while millionaire Johnnie Crean fights a bad-guy image and a write-in challenge.

Cordova's ghost 320

By Larry Peterson

Bosco's bitter flavor 323

By Allan Erickson

Leo Rennert 351

Tom Hayden and the CED

In Los Angeles, Assembly candidate Hayden hopes mainstream Democrats will forget his radical past. In Chico, conservatives fear that his Campaign for Economic Democracy has found a new home.

Swimming in the mainstream 333

By Bud Lembke

Chico's liberal takeover 337

By Michael J. Fitzgerald

Saga of the Super Escalator 339

By Jackson Rannells

Welcome to the wonderful world of legislative pensions, where retirement can pay much better than serving in office.

The odd couple of GOP polling 344

By Bud Lembke

Voting the independent mood 347

By Tony Quinn

Whither the water war? 349

By Antonio Rossman

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in shaping your world.**

It's here now.



309

Personal PERSPECTIVE

By Ed Salzman

Taxes or socialism?

Now that Mayor Daniel K. Whitehurst of Fresno is no longer a candidate for statewide office, he feels it politically safe to propose that local government be allowed to increase property taxes. The alternative, he claims, is a deterioration of services to an unacceptable level. In a *Los Angeles Times* column, he pointed out that Oakland can now afford to repave its streets only once every 275 years "whether they need it or not."

The fact is that Californians don't see any crisis. They are not convinced that all the fat has been removed from government. And the tax crusade launched by Howard Jarvis and Paul Gann is still alive and well in California. Cities must look elsewhere for funds if they intend to provide a traditional level of services.

And there is an elsewhere. The city of Fairfield, half way between San Francisco and Sacramento, is showing how it may be possible for California communities to get rich without depending on new taxes or aid from the state and federal governments. The solution is called "financial independence" by Mayor Gary Falati and an "entrepreneurial attitude" by City Manager B. Gale Wilson. Most ordinary folks would call it a form of socialism.

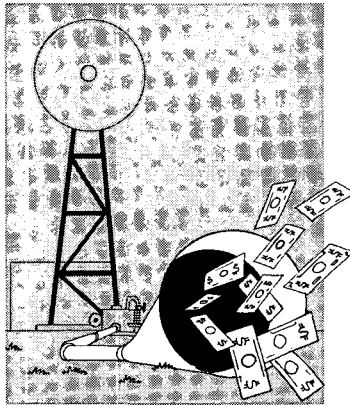
Fairfield and plenty of other cities in California are going into business. Look at the deal Fairfield cut with the developer of a million-square-foot shopping center. The city gets a percentage of the "net cash flow" from the center up to a maximum of 17 percent. If the center is sold — and it is estimated that the property will change hands for something like \$200 million — the city will get 17 percent of the action. In addition, the city retained some 66 acres around the shopping center, and that land should bring \$15 million.

Fairfield is also telling the world how to make money on energy. It so happens that there is a federal law (known as PURPA) that requires utilities to buy energy from small producers at a very high rate. Fairfield is developing wind power and is joining forces with the Budweiser folks to obtain co-generated electricity from a large beer plant. Pacific Gas and Electric must buy the power, and the city can buy the energy back from PG&E at a much lower rate. "The Supreme Court says it's legal," says Wilson, "and it's moral too."

Power can be developed from co-generation at hospitals, city halls and other large buildings, he says, and the profits can be enormous. Wilson spelled out the fiscal outlook for a Civic Center co-generation project at a League of California Cities meeting: The project will be financed with 20-year bonds, go in the black in the second year and produce \$1 million a year in net cash flow the 21st year.

Wilson also showed cities how they can make money by running their own cable television services, by buying natural gas from wholesalers at cheap rates rather than through the retail utility system, by selling fire insurance and through partnership arrangements on businesses that locate on public land.

Over the years, conservative-leaning city councils have been reluctant to engage in business normally reserved to private enterprise. Fairfield, home of Travis Air Force Base, is far from a liberal enclave. More and more cities are being forced to follow Fairfield's lead in this era of creative financing. And Wilson swears that the entrepreneurial attitude is easy to obtain. "The council," he says, "has trained the staff to smell money."



ROSTRUM

Short letters from subscribers
are encouraged.

Vigorous enforcement

The *Journal's* July article on the Contractors State License Board, while an accurate report of past board difficulties, paid scant attention to the very significant improvements which shape the organization's character today.

By emphasizing that two years ago a license application might take eight to twelve months, the article downplayed the considerable reduction in waiting time today — only two to six weeks for those not requiring an exam. Further reductions in the time for applicants requiring examination are expected in the next few months.

Some applications, however, will always take longer than others. The Legislature mandates that a certain percentage received be sent to district offices for a thorough field investigation which is time consuming.

The article's charge of "wet noodle" enforcement also seems unfair — in light of the fact that more than three times as many contractors' licenses were revoked last year than in 1979. Today vigorous enforcement is the rule — including cases involving the so-called "Williamson Gang."

The Contractors State License Board is no longer the organization it was three — even two — years ago. Reductions have been made in the complaint backlog, new enforcement tools have been brought into play, and the waiting time for the testing and licensing of contractors has been cut.

Although it is true the board's budget and staffing have been increased during the last few years, the increases were necessary to accomplish these improvements. Many of the positions have now been eliminated. In fact, the board's budget — both for overall expenses and personnel — has been decreased this year.

Nonetheless, efforts continue to improve service to the public and contractor community alike. Streamlining the licensing process further and educating the consumer public are top priorities — goals which, as your article does point out, the board has made substantial progress towards.

If we were "under seige" in the past, then the CSLB has regained the offensive in its efforts to serve both California's consumers and the state's largest industry.

JOHN F. MALONEY
Registrar of Contractors

Brown's court legacy: crusaders against social injustice

By K. CONNIE KANG

Governor Jerry Brown has named six judges to the California Supreme Court. When he departs from Sacramento next January, he will be leaving a court that is committed to a course of judicial activism unparalleled in recent history. The seven-member tribunal is viewed by legal observers from San Francisco to New York as probably the most activist bench in the nation, with a majority which does not hesitate to seize upon a chance to correct perceived social ills and injustices.

"You're witnessing probably the highest point of judicial activism we've ever reached," says renowned legal scholar Bernard Witkin, of Berkeley, an observer of the court for half a century.

"Nothing is sacred anymore," says another veteran court-watcher, San Mateo Superior Court Judge Melvin Cohn, a respected trial jurist. "I get the impression the court doesn't pay attention to precedents," he adds. "It's difficult for trial judges to know what the law is. They (the Supreme Court) change it every 10 minutes."

The court which Governor Brown has helped to shape is also more controversial and politicized than the one he inherited when he took office in 1975. The changes have resulted from forces at work both within and without the judiciary. But the liberal ideology which most of Brown's appointees reflect has not been particularly successful with the electorate. This was apparent in the passage in June of Proposition 8: If upheld in its entirety, the initiative would overturn about 50 high-court criminal law decisions, going back 25 years.

The current Supreme Court also has been at frequent odds with the Legislature. The two branches have repeatedly collided on controversial matters. One perennial issue is the funding of Medi-Cal abortions. The Legislature

votes every year to cut most funding, and the inevitable legal challenge results in a high-court ruling that such a cutoff is unconstitutional.

Another dispute between lawmakers and justices involves payment to private attorneys who have successfully sued the state to vindicate constitutional principles. The court insists the attorneys be paid; the Legislature refuses to do so. They have also disagreed repeatedly on the death penalty.

'One minute to midnight'

To Chief Justice Rose Elizabeth Bird and many court observers, the chorus of criticism appears to be orchestrated by radical right-wingers intent on packing all of the state courts with judges responsive to their ideological views.

Conservative forces "are attempting to impose a new rule of law on the judiciary — the rule of extortion and the law of the jungle," Chief Justice Bird recently warned in a speech before the California Labor Federation. "It is later than just the 11th hour; it is one minute to midnight, and the bell may be about to toll for the judicial independence of this state," she said.

Yet not all of the court's critics fit neatly into the right-wing mold. Many veteran trial judges are agonized by some of the new procedural rules handed down by the court. "Even if you agree with the exclusionary rule, it's gotten to the point where it's ridiculous," says San Mateo's Judge Cohn, a 19-year veteran and a Pat Brown appointee. "I can understand the rationale of a person being safe in his home, but when you extend that to somebody's garbage can, you wonder. Why garbage should be sanctified I'll never understand. It's things like this that drive a trial judge up the wall."

San Francisco Superior Court Judge Harry Low, who presides at the Juvenile Court, says the rules changes are increasingly burdensome. "We are giving a hearing upon a hearing upon a hearing," Low says. When rules weren't so complex, trial judges could try a criminal case one day, a divorce case the next and a juvenile case the day after that,

K. Connie Kang covers the state Supreme Court for the San Francisco Examiner.



Justices seven: (from left) Broussard, Newman, Mosk, Bird, Richardson, Kaus, Reynoso.

he says. These days, trials have become so complex that judges have become more and more specialized. "We want to do a good job and are cognizant of people's rights," he adds. But when a judge considers a calendar of 60 cases in an afternoon, it's not so easy to do everything in conformity with the rules handed down by the court, Low says. Both Cohn and Low suggest it would be instructive for some of the justices to sit temporarily on a trial court and try to live by the rules they have helped promulgate.

While criminal law rulings of the high court — aimed at providing constitutional protections to the accused — have generated the most public outcry, recent decisions in social, political and economic areas have raised some serious concerns also. The direction of the court in civil law — the areas ranging from finance to insurance, property rights, product liability and personal injury — is troubling experts. Some of these rulings have brought shifts in the law that make it difficult for lawyers to rely on settled law in advising their clients.

"The court's opinions are quite result-oriented," says Professor William Cohen of Stanford Law School, a specialist in tort and constitutional law. "In tort law, there is a

clear plaintiff's orientation (in court rulings) in terms of result," he says. "I don't find a clear sense of what the limits are. We are now at a point where no tort-reform law is predictably valid until the court tells us whether it is or not."

The result for the legal community is confusion over what the law is. This often translates into more lawsuits to test limits.

Professor Gideon Kanner of Loyola Law School in Los Angeles believes the court itself is partly responsible for the predicament in which it finds itself. "When a court becomes too activist, it necessarily enters the political arena, because the question of which direction the society is headed is a political question," he says.

Another law professor, Phillip Johnson of the University of California's Boalt Hall, agrees. "When the court decides its own role to be ideological — to attempt to put across its own idea of what a good policy should be in the law — then I think it has chosen the realm of politics, and such challenges are to be expected," Johnson says.

"The judiciary has an enormous stake in appearing to be fair-minded and neutral on political questions, to retain the trust of people from differing viewpoints. I think some of the justices have not been mindful of the importance of that," says Johnson, who clerked for both United States Chief Justice Earl Warren and California Chief Justice Roger J. Traynor.

Renting to children

One case which illustrates the court's viewpoint is a recent decision which required landlords to rent to families with children. "It's an excellent example of the extreme activist point of view in which a statute — surely never thought of before to have this impact — is seized upon to declare an important social doctrine of property and family law. They had to have some twist because they couldn't find a constitutional basis," says Witkin. (The court based its decision on the Unruh Civil Rights Act, which prohibits racial and other types of discrimination in public accommodations.)

Another example: the Medi-Cal abortion decision, which went contrary to the conclusion of the United States Supreme Court. In this case, the court used the privacy provision in the state constitution to order the state to pay for abortions to women on welfare. "That's not being neutral," said Boalt Hall's Johnson. "That's taking a very powerful moral position."

At times, the current Supreme Court resembles a sports team, with avid fans and detractors lined up to cheer and jeer. Reactions are predictable along philosophical lines: By and large, liberals like what the court does, while conservatives don't because they haven't fared well. Laments San Francisco attorney Raoul D. Kennedy: "As one who tends to represent 'Fortune 500' corporations, my clients don't feel that the California Supreme Court provides a viable route of appeal for them. The grant of hearing by the court in a case where one of my clients is a party, can only mean bad news."

By contrast, San Francisco public-interest attorney Robert Gnaizda, who tends to represent consumers and class-action cases, says, "I'm pretty happy with the court." Gnaizda believes if one were to compare the combination of the court's scholarship, quality of work, and the importance of its decisions to the legal system to high courts of other states, the California court is still "the most outstanding Supreme Court."

Sometimes liberals complain that the court doesn't go far enough. Last year, when the court refused to interfere with the implementation of Proposition 1, the anti-busing initiative, unkind words were hurled at the court from liberal quarters. (Chief Justice Bird was the lone dissenter.)

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Rare breed: lawyers without ego

Compared to most institutions, the state Supreme Court operates with a remarkably small staff. There are only 71 staff positions, 33 of them slots for research attorneys who are more commonly known as "law clerks." With the exception of "externs," second and third-year law students who clerk for judges one semester, the career staff of attorneys has remained fairly constant.

Lawyers who work for the court are a rare breed — dedicated professionals seemingly without the big egos or greed of so many of their brethren in private practice, who thrive on recognition and making money. The satisfaction for a lawyer working for the court probably comes from helping to shape law in California.

Research attorneys are not unlike ghost writers. No matter how creative their ideas, no matter how much influence they may have had in the writing of a particular opinion, it is the judge for whom they work who gets the credit or blame, whichever may be the case.

Ask how much of a law clerk's work finds its way into the final opinion, and you won't get a straight answer. It's a secret between a research attorney and his or her judge.

Because of the small size of the staff, word travels quickly at the court, and it's easy to find out who said what to whom. Since the Tanner hearings, employees at the court appear even more reluctant than before to be seen talking with outsiders. Still, some information about the goings-on at the court inevitably get out — especially gossip.

One of the more unhappy occasions for many staff members was the retirement last year of Donald Barrett. Barrett had been the court's top lawyer, having served four chief justices during his 33 years at the court. A man with photographic memory, Barrett was a source of instant information about dozens of decisions, many of them going back decades. He enjoyed the respect of judges and lawyers alike.

Although Barrett denies it, most insiders believe he stepped down because he was not being given meaningful work to do. The chief justice and her staff did not show up at Barrett's retirement dinner, a slight that did not go over well with his many admirers.

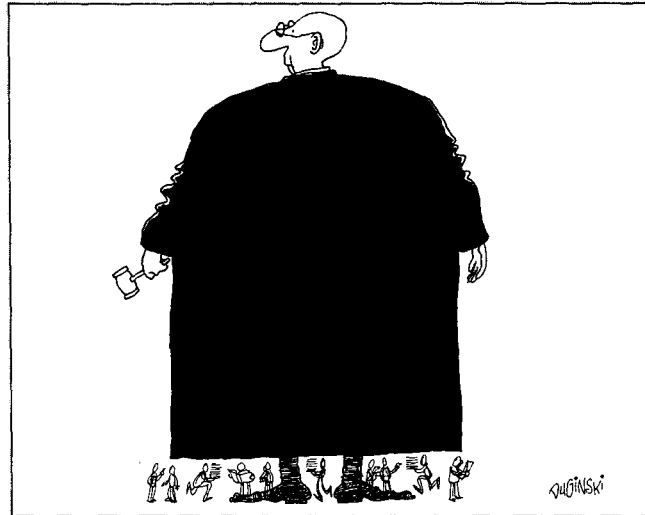
"We miss him every day," says a member of the court. "Don Barrett has been an invaluable resource."

"We lost the benefit of continuity in the court's

work," says another judge. "It's been a great loss."

Attorney Jack Kavanagh also resigned last year. He had hoped to succeed as clerk of the court when Gale Bishel died, but he didn't get the job. It was Chief Justice Rose Bird's decision to advertise the clerk's position. The notice attracted about 200 applicants from all over, according to insiders. The spot was left unfilled for months, while applicants kept calling to inquire. All along, Bird apparently had the person she wanted in mind.

Bird's determination to bring in her own person to



the clerk's job resulted in a protracted debate at the court. Finally, on a 4-3 vote, Bird got her way. In an unprecedented action, the court felt it necessary to issue a press release announcing that the appointment of Laurence Gill as clerk of the court, had not been unanimous. In fact, three judges had insisted that Kavanagh deserved to be promoted.

While the power struggle over the clerk's job proceeded, court documents went out bearing the stamp of the late Mr. Bishel.

Not long after Justice William P. Clark left the court for the State Department, Kavanagh was tapped to work as a clerk at the International Court of Justice in the Hague in connection with settlement of claims against Iran. Justice Stanley Mosk's son is one of the special masters at the International Court.

K.C.K.

The court's senior justice, Stanley Mosk, a lifelong liberal, has suffered the wrath of certain segments of the liberal community for several years because of his position on the equal-protection clause. Mosk steadfastly opposes affirmative-action programs on the grounds that it is just as unconstitutional to discriminate against the majority as it is to discriminate against a minority. The position has cost him friends in liberal circles.

There are some other widely heard criticisms of the current court which appear to be untainted by philosophical bias. Among them:

- **That the court** pays scant attention to precedents (the doctrine of *stare decisis*). On occasion, it will overrule

its own earlier decisions, as long as four votes are there, without giving sufficient time to let the law settle.

- **That justices** are too involved in detailed criminal procedures, second-guessing trial judges and reversing lower courts even when an error by the judge may be "harmless."

- **That they may be** too willing to entertain single-issue cases instead of concentrating on the important questions of law with statewide impact or on conflicts in the law.

- **That the court** is "depublishing" too many intermediate Courts of Appeal decisions, which means that the result in a particular case stands for the litigants in that case, but it cannot be cited by lawyers in similar future liti-

gation. This practice, which has become prevalent in recent years, is upsetting to intermediate appeals court justices whose work product doesn't get published in the official reports and has no impact beyond one specific case.

Suffering by comparison

Yet the Supreme Court has its share of sympathetic defenders. They point out that heavy workload is a problem for the court and becoming increasingly so. At one weekly Wednesday conference of the court this past spring, the justices had a record 129 petitions to consider. On any Wednesday, the court has about 100 cases to consider, an increase of more than 10 percent from a decade ago. Most judges on the court are now spending half of their time preparing for the Wednesday conference — deciding which cases ought to be heard by the court.

With the exception of law professors, by and large the quality of written opinions issued by the court receives favorable review. That may be because while judges come and go, the career staff of lawyers has generally remained.

"The content and slant may vary but in nearly all instances, both old and new judges, using experienced staff and giving deliberate considerations of major issues, turn out opinions which are well-documented and very carefully edited by experienced hands," says legal scholar Witkin. "That's the point. That should be remembered," emphasizes Witkin, who was once a research attorney himself.

There are some observers, like San Francisco appellate lawyer Robert A. Seligson, who believe the present court is criticized mainly because of the standout reputation of its predecessor courts. "It's kind of like asking someone to evaluate the New York Yankees after Babe Ruth and Lou Gehrig and other greats of that era have retired," Seligson suggests. "The players who have succeeded them may be perfectly competent, but they necessarily suffer by comparison."

There may be some truth to that. For three decades or more, the California Supreme Court has been a forward-looking, precedent-setting, imaginative and self-confident body. The controversial exclusionary rule, which disallows the use of illegally obtained evidence, was announced by the state court in 1955 in the *People vs. Cahan* case, years before the same principle was adopted by the U.S. Supreme Court for the rest of the nation. The *Cahan* decision was authored by former Chief Justice Roger J. Traynor.

Traynor — said to have had the most brilliant legal mind ever on the state high court — was also instrumental in other law reforms. It was the Traynor court which is credited with formulating the theory of cost distribution — the spreading across society the cost of misfortunes suffered by the few.

The principle of cost distribution as applied to insurance was a "beautiful idea," but it's not working anymore, says Loyola's Kanner. "My son, who has a good student credit, has to pay over \$1,000 in car insurance premiums," he says. High insurance premiums have resulted in many motorists not carrying car insurance at all, Kanner notes, which defeats the purpose of the original idea.

It appears to be the consensus of long-time court-watchers that Traynor, while innovative, was also restrained and mindful of balance. As Traynor, Raymond Peters, Louis Burke, Raymond Sullivan and Donald Wright left the high court, it began to lose balance and some of its self-restraint as well. (The late Justice Marshall F. McComb, a conservative, was forced to retire in 1977 because of senility. He voted with the conservative wing until his retirement but — because of his advanced age and condition — he had little influence during his last years on the court.)

With some of the "superstars" gone, the late Mathew O. Tobriner, a confirmed liberal, became the central actor. When Bird — only 40 years old and with no prior judicial experience — arrived at the court in March 1977, it was natural for her to turn to the court's senior justice, who, as acting chief justice, had cast one of two votes to confirm her. Tobriner's influence on the court was far greater than any other associate justice. On the conservative side, neither William P. Clark nor Frank K. Richardson could stand up to the liberal bloc.

The controversial Rose Bird

After more than five years on the job, Bird remains as controversial a figure as the day she arrived at the court. She has yet to muster broadly based support in California's legal community, including many insiders at the high court. "She runs the machinery but hasn't won the hearts and minds of the judges," says a San Francisco appellate judge who shares her judicial philosophy.

Barely three years after her confirmation by 51.7 percent, Bird continues to be the target of attack. "I've gotten almost to the point that I feel unloved unless they're trying to recall or impeach me at some time or another," the chief justice has said. "I basically feel that if you look historically, anyone who did anything usually was controversial. And, I remember reading in (the late Chief Justice Earl) Warren's book about his years in the Supreme Court. He said that the only things he ever got into trouble for were the good things that he did."

But unlike Earl Warren, some of Bird's harshest critics are other judges. For example, when the California Judges Association took a plebiscite recently on a proposed constitutional amendment aimed at curtailing the power of the chief justice in appointing members to the state Judicial Council, a substantial majority of the judges voted in favor of it.

The most common complaint against Bird is that she uses the power of her office rather than relying on the art of persuasion to get things done. "She still sees herself as the head of a department who gets the last word, rather than chief justice," said a veteran high court official.

To be sure, Bird has her share of supporters. She has loyal friends in the judiciary and among lawyers — particularly in the ranks of public defenders, criminal defense lawyers, lawyers specializing in consumer and public-interest law. Her supporters are convinced that no matter what Bird

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4 (or 5) for the November ballot

In the upcoming November 7th election, four state Supreme Court justices will be on the statewide ballot, and voters will be able to cast a "yes" or a "no" vote on each of them.

They are one Ronald Reagan appointee, Frank K. Richardson, 68, a conservative; and three Jerry Brown appointees, Otto M. Kaus, 62, a moderate, Allen E. Broussard, 52, a moderate liberal, and Cruz Reynoso, 50, a liberal. If another Brown appointee, Frank C. Newman, 65, a liberal, leaves the court as expected, and if the governor appoints Newman's successor well in advance of the election, she or he, too, may have to face the voters.

Earlier this year, there were rumors that the court's senior justice, Stanley Mosk, 69, a liberal, may step down before his 70th birthday September 4th. But Mosk himself has maintained that he plans to serve out his term, which doesn't end until 1986.

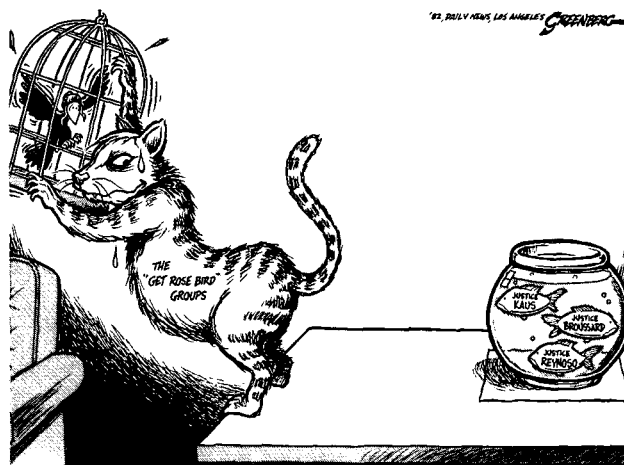
For the time being, recall attempts against Chief Justice Rose Bird, 45, seem to have subsided. Her term also expires in 1986.

In February and early March, reacting to the court's reapportionment decision unfavorable to the Republicans, the California Republican Party toyed with the idea of launching a recall move against the chief justice and a non-confirmation campaign against the three Brown appointees. But the GOP leadership dropped the plan in the face of sharp criticism from many quarters. Since Republicans prevailed on the reapportionment measure in the June 8th election, that issue ceased to be a bone of contention. But taking its place is an even more politically sensitive topic: Proposition 8, which mandates sweeping changes in the criminal justice system.

Now that the court — with Bird, Mosk, Richardson and Kaus voting — has taken over the case from a

lower court, how the court disposes of this controversial issue may play a crucial role in the general election this year.

No appellate justice has ever been defeated at the polls since the state made judicial elections non-partisan 48 years ago. Yet many courtwatchers are



worried about the fate of the Brown appointees, particularly Reynoso. They remember that, when Reynoso's name was on the ballot in 1978, he received the lowest vote of any Court of Appeal justice running that year, even though he was not known widely. They think racism may have played a part.

What percentage of votes the four justices receive may provide an important measure of what the mood of the public is toward the California Supreme Court in 1982.

K.C.K.

does, her critics won't recognize her accomplishments. They say her critics attack her unfairly because she is a woman, a liberal, is reform-minded and didn't come from within the system. And, now that she is saddled with an unfavorable reputation, she can't get rid of it, they say.

As an administrator, Bird's strengths are her enormous capacity for hard work, extraordinary will power and courage. "She has been extremely courageous," says a prominent San Francisco attorney who is no fan of hers although he shares her judicial and social philosophies. "Rose Bird has made a very low priority her own survival — which I cannot say for most judges or lawyers."

Her weaknesses as an administrator are said to be her inability to compromise once she has made up her mind, a tendency to interpret a disagreement or criticism as personal attacks on her, an unwillingness to delegate and an inclination to value personal loyalty over professional competence. "Her problem is that she likes to get her nose into everything," says a Supreme Court official. "She could spare herself some of the flak if she would delegate and let others make decisions and let them get their due credit or blame," this official says.

There is a certain distance and separation between her staff and the staff of some of the other members of the court. "It's an 'us against the world' kind of attitude," says a Supreme Court official. Another staff member agrees: "There is still an air of suspicion and distrust. I don't remember working in an atmosphere like this for so long."

There is a lingering feeling at the court that, had there been a different chief justice at the helm in 1978, the court probably would have avoided the investigation by the Commission on Judicial Performance and some of the difficulties that followed. It appears that Bird hasn't been forgiven for her unilateral decision to ask the commission to investigate allegations that the court delayed sensitive decisions to enhance Bird's chances at the polls. Three years later, there is civility on the surface, but wounds haven't healed completely.

The arrival of Kaus

One of the best things that has happened to the court recently may well have been the arrival of Otto M. Kaus. He is the only Brown appointment to the court which has received uniform praise in California's legal community, from all ideological camps. Kaus, who had been passed over by the governor in the past, had established a strong reputation on the 2nd District Court of Appeal in Los Angeles for his scholarly and finely crafted opinions. "He is superb," one member of the court said recently.

"I think Otto Kaus may become a very influential member of the court," says Boalt Hall's Preble Stolz. The author of *Judging Judges*, a controversial book about the court and the 1979 Tanner hearings, Stolz says he has "high hopes" for Kaus' future influence. It may be a while before he can exert direction, however, because Kaus is still a newcomer.

The most noticeable difference between the Bird court

and the previous body is the current absence of a liberal/conservative balance. Justice Richardson is the only consistent spokesman for the conservative point of view, but he is not the "passionate" conservative that Clark was while on the court. On a liberal/conservative scale of 1 to 7, Richardson would probably be a 6.

On the other end of the scale, Bird would be a 1; she is a passionate liberal. Frank Newman would probably follow Bird. Mosk and Allen Broussard would probably fall in the range of 2 to 4, depending on the issue. Cruz Reynoso is too new to appraise but, based on his performance on the 3rd District Court of Appeal, he probably would be comfortable in the 2 to 4 range.

Based on the decisions Kaus has written and joined in, he is the most difficult justice to label. He has written a majority opinion to strike down a provision of the 1978 death penalty law — the section which permits the imposition of capital punishment where the murder is found to be "especially heinous, atrocious or cruel." But he has also dissented from a decision which allowed trial judges to overturn the finding of a jury in first-degree murder cases.

Kaus dissented in a decision in which the court ruled that a private lagoon near the beach community of Marina del Rey in Los Angeles can be taken over by the city of Los Angeles under the public-trust doctrine. But he was the author of the court's majority opinion in a so-called "wrongful life" case. In that case the court permitted a child who claimed she should not have been born to sue her doctors for failing to diagnose a hereditary condition. The child was granted "special damages" for medical expenses and other expenses to treat her condition.

One interesting development seems to be occurring: In the past, Mosk has been the force behind the independent-state-grounds doctrine which has been used to provide

greater constitutional protections in California than those allowed in the federal Constitution. Recently he has been more unpredictable in criminal cases.

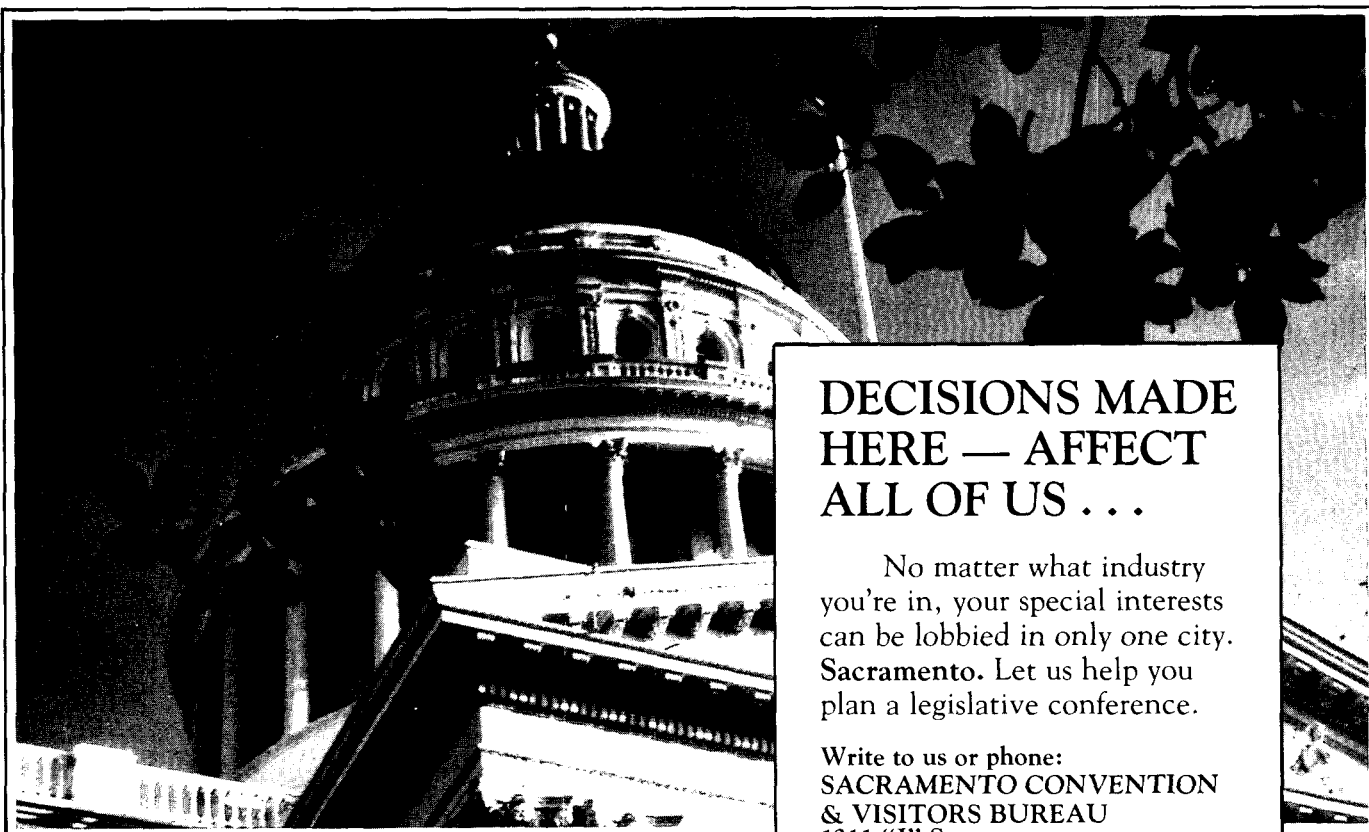
Interpreting neutrally

What can the court do to re-establish its reputation as the nation's most distinguished judicial panel? One suggestion comes from a respected attorney who has spent 33 years at the high court and was its top lawyer until his retirement last year. Attorney Donald Barrett of Berkeley recommends a first-rate, blue-ribbon panel to examine the court's operation from "top to bottom." He believes the panel should deal with two questions: How can the court do more effectively what it does? Is the court doing what it ought to be doing?

At least one member of the court welcomes the idea. "I'm in favor of it," says Richardson. Such an analysis could be exceedingly useful, he adds. Justice Mosk says the idea has "possibilities."

Loyola's Kanner says he is distressed by the rising criticism of the judiciary. "At the same time, I must acknowledge there are good reasons for it," Kanner concedes. "Government derives power from the governed. If they (the courts) get too far out of whack, that creates hostilities, creates strains, creates legislation . . . to restrict the judiciary. It's reaction to courts having pushed too far."

The legacy of Jerry Brown will probably be that he has managed to broaden and narrow the California Supreme Court at the same time. In one sense, he broadened it — by tapping people of diverse backgrounds to make the court more representative. In another sense, he has narrowed it because, with one exception, his appointees share similar views of society and the role of the court in fashioning a better world.

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CONGRESSIONAL-RACE PREVIEW:

- Six key contests
- The GOP pot of gold
- Bizarre battle of the 43rd

By ED SALZMAN

The word reached Sacramento this summer that the Republican Congressional Campaign Committee was earning more money each day in interest on its war chest than the comparable Democratic committee was receiving in contributions. Still, there were few smiles on the faces of Republican strategists attempting to win seats in the House of Representatives at this November's election.

Even with the enormous economic advantage, the Republicans are definitely in a defensive position in the competition for California's 45 congressional seats. The reapportionment plan drawn by Congressman Phil Burton of San Francisco was so cleverly crafted that relatively few districts are subject to bombardment by GOP dollars from Washington.

The Democrats now hold a slim 22-21 advantage in the delegation, which will be enlarged by two seats as a result of the 1980 census. It would take a sweep of landslide proportions to give the GOP control of the delegation next year. On the other hand, the Democrats have an excellent chance of

capturing 27 or more seats. Here is the general outlook:

Among the 25 rock-solid seats, the Republicans should get 13 and the Democrats 12. (Among the Republicans with easy races is newcomer Ed Zschau of Los Altos, who could have an immediate impact in Washington if he is not given obscure committee assignments. He is an expert on taxation and modern technology, and he knows how to work the political system. As an unknown he is in the process of winning a congressional seat virtually without a contest.)

Thereafter, it is all rough sledding for the Republicans. Of the 10 districts that lean heavily toward one candidate or the other, nine should be won by Democrats and only one by a Republican. In the 10 most competitive races, the Democrats have incumbents carrying the party banner in six instances. The GOP is shooting megabucks at most of these Democrats, but it is unrealistic to think that many of them will be defeated. In fact, the incumbents most likely to lose in November include two Republicans, Don Clausen and John Rousselot (who faces a Democratic incumbent, Marty Martinez).

Here is a rundown of the districts, based on the competitiveness of the races:

🔥 TORRID 🔥

DISTRICT 1 (51%D-33%R) — Young Democratic Assemblyman Doug Bosco is giving veteran Republican Don Clausen the race of his life in this North Coast district. Even some Republicans concede that Clausen perhaps should be rated as the underdog. One GOP strategist said he fears that this contest has the same characteristics as the 1980 race in an adjacent district between then-incumbent Bizz Johnson and Republican Gene Chappie. Is Clausen, like Johnson, a worn-out warhorse unable to protect his territory against an invasion from a more vigorous opponent?

DISTRICT 15 (61%D-23%R) — The national political community will be watching this fascinating contest between redistricting architect Phil Burton and liberal Republican state Senator Milton Marks. Burton is one of the most skillful and powerful members of Congress, and he has become an institution in San Francisco. But he gave himself a less-than-ideal district in an effort to save his brother, John, who chose not to run for re-election. Republicans sought a candidate who could take him, using the reapportionment plan as a key issue, and they came up with Marks, who votes like a Democrat. The streets of San Francisco are paved with the political bodies of Democrats who should have beaten Marks. The registration figures and all the basic rules of elections must be discarded in a Marks race. The early polls showed Marks ahead, but Burton has been working hard and even

amassed a larger campaign fund than Marks in the early going. The White House would dearly love to remove Burton from Congress, but the more Reaganism is attached to Marks, the more votes Burton is likely to get. Marks is probably the only Republican in California with even a chance at winning in this district. Neither Marks nor Burton has the kind of personality that will wow an electorate. Marks is a whiner, and Burton is overbearing. Burton's big asset is his ability to get things done in Washington. Because of the non-conventional Marks factor, this race will remain in doubt until the votes are counted.

DISTRICT 6 (54%D-33%R) — This is a rematch of the 1980 contest, only this time the incumbent is Democrat Tom Lantos instead of Republican Bill Royer. The district was altered to include the Palo Alto area, which has a low Democratic registration but which is quite liberal. Lantos is an aggressive campaigner who knows how to promote himself. He has been shameless in seeking campaign contributions from Jewish sources across the nation. As a former San Mateo County supervisor, Royer is well known in the northern part of the district. He faces a tough struggle, but he could win if he puts Lantos on the defensive.

DISTRICT 15 (58%D-33%R) — If not for a single letter written by Democratic incumbent Tony Coelho, this district would be considered as cold as any. But Coelho wrote a letter seeking leniency for a friend in a highly publicized criminal case. Taking advantage

of the opening is retired Madera County Sheriff Ed Bates. The campaign became heated virtually the day after the June primary because Bates wasted no time putting



COELHO



BATES

commercial on television that emphasize his role as the law-enforcement officer-in-charge during the highly publicized Chowchilla kidnapping case. Republicans are tickled about making this district competitive, in part because it will force Coelho, head of the Democratic Congressional Campaign Committee, to devote much of his energy to his own race. Bates' law-enforcement background and his large campaign bankroll will give him a crack at victory. But Coelho is one of the shrewdest politicians in the state and has plenty of Fresno-region establishment backing. The key to the outcome of the vote is in Modesto, new to Coelho's district.

DISTRICT 30 (63%D-28%R) — This district appears made to order for an Hispanic



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Democrat. Under normal conditions, incumbent Matthew (Marty) Martinez of Monterey Park would be able to coast to victory following his special-election squeaker. His predecessor, appellate judge George Danielson, never had to worry about Republicans. But there is an unusual factor this year: Reapportionment left Republican John Rousselot, one of the darlings of the California GOP, without a district. Rousselot chose to run in this district, and he has the kind of expertise to make the race interesting. He also should get all the money he needs to maximize his chances. The Republicans think Rousselot has a good chance of winning, based on Martinez' close shave in the special election. But special elections are low-turnout affairs in which the GOP always has an advantage. The district should elect Martinez, but an old warhorse like Rousselot can never be counted out of the race.

DISTRICT 38 (52%D-35%R) — The Republicans have made Democrat Jerry Patterson of Santa Ana a prime target, mainly because no part of Orange County can be considered safe for a Democrat. The GOP candidate is Bill Dohr, a Santa Ana businessman. The registration statistics make this a marginal district, but Patterson usually runs ahead of his party. Patterson should be able to raise enough money to compete with Dohr in the advertising department. The key will probably be how effective the GOP is in its attempt to portray Patterson as a liberal, which is an epithet among a majority of voters in Orange County.

🔥 HOT 🔥

DISTRICT 17 (54%D-37%R) — Republican Charles (Chip) Pashayan of Fresno will be tested thoroughly this year. His opponent is County Supervisor Gene Tackett of Kern County. Tackett is politically well-connected. (His brother-in-law is City Attorney Ira Reiner of Los Angeles.) Pashayan won re-election two years ago by an overwhelming margin, leaving doubt that he is as weak as Democrats think he is. The main battleground will be Tulare County, which is not home territory for either candidate.

🔥 WARM 🔥

DISTRICT 37 (46%D-42%R) — Veteran Riverside County Supervisor Al McCandless of Palm Desert rates as a heavy favorite in this open district. He is a well-known Rea-

gan conservative, and the district has a definite Republican aura about it. Yet McCandless barely won the Republican primary, and his opponent, Police Chief Curtis (Sam) Cross of Indio, is not the standard Democratic nominee. Cross needs to bite into the Republican vote in order to win. State Senator Bob Presley, former undersheriff of Riverside County, has done that in some of the same territory.

DISTRICT 9 (60%D-28%R) — Liberal Democrat Pete Stark of Oakland won by a smaller-than-usual margin two years ago, and that led Republican Bill Kennedy of Pleasanton to believe that Stark could be taken this year. Kennedy never stopped campaigning, and this year he has much more party support. Nevertheless, he faces a difficult uphill struggle. First, the race was not tight two years ago; Stark's percentage margin was 55-41. Secondly, Stark has plenty of money and he is running a much more aggressive campaign this year. Thirdly, the area has a Democratic tradition and has been hit by the closing of auto plants in southern Alameda County. Republicans rarely win in districts like this, but the erosion of party loyalty in California gives Kennedy room for hope.

SPECIAL SITUATION 🔥🔥🔥

DISTRICT 43 (34%D-52%R) — Under normal circumstances, there would be no general election in this district, which includes southern Orange and northern San Diego counties. It is solidly Republican, and the winner of the GOP primary would have been conceded the November election. But there were 18 candidates in the Republican primary, and the winner was mobilehome magnate Johnnie R. Crean of San Juan Capistrano, who spent a fortune of his own money to buy advertising handled by the Butcher-Forde organization of Orange County. The other candidates were so re-vulsed by Crean's campaign tactics that they solidified behind the runner-up, Mayor Ron Packard of Carlsbad, as a write-in candidate. This means that there are two Republican candidates in the general election, Crean and Packard, plus Democrat Pat Archer of Escondido. No one can predict how effective a write-in campaign will be, and any of the three candidates could win. The same situation arose in an Assembly district in Orange County several years ago, and a Republican area elected a Democrat (Ron Cordova) for a single two-year term. Cor-

Guide to rankings

Torrid 🔥🔥🔥 — These are the target districts in which heavy artillery is being employed on behalf of both the Republican and Democratic candidates. In most cases, the outcome will be in doubt throughout the campaign.

Hot 🔥🔥 — One candidate appears to have a slight advantage, but the opponent is within shooting distance and the outcome is far from a foregone conclusion.

Warm 🔥 — In these districts, one candidate has a significant advantage. Nevertheless, an underdog victory is more than a remote possibility.

Cool 📞 — These districts present the best bets for upsets.

Cold 📞📞 — One candidate appears to be far ahead in each of these districts. Nevertheless, an 11th-hour blitz mailing could in a rare instance produce an upset if the leader sleeps throughout the campaign.

Special situations — These are races with extraordinary factors that make normal political assessment difficult.



PASHAYAN



TACKETT



PATTERSON



DOHR

dova was succeeded by Marian Bergeson, who had been the write-in candidate against GOP nominee Jim Slemmons.



DISTRICT 4 (56%D-30%R) — Democrat Vic Fazio of West Sacramento lost some of his loyal territory, and he has a professional politician for an opponent in former legislative staffer Roger Canfield. Fazio is another former staffer who knows how to keep his constituents happy. If the GOP pours big bucks into the district, this race could get warmer.

DISTRICT 6 (58%D-26%R) — Republican Dennis McQuaid might have had a chance to win this seat had the Democrats nominated Supervisor Louise Renne of San Francisco. But Supervisor Barbara Boxer of Marin County won the Democratic primary, and she should whip McQuaid in November. McQuaid will run a full-scale campaign, keeping himself in line for a GOP seat following the next redistricting.

DISTRICT 14 (50%D-39%R) — This district was created for Republican Norman Shumway of Stockton. Shumway picked up some rough-and-ready foothill counties, and he isn't exactly a country-saloon operator. His opponent is former Mayor Baron Reed of Roseville. If Shumway were a good ol' boy instead of a straight-faced Mormon, he'd find campaigning much easier in some of his new precincts.

DISTRICT 18 (61%D-29%R) — The Republicans have a candidate, Adrian Fondse, who is well-known in political circles. But he's known because he lost an Assembly seat following a hotly disputed recount. Fondse will have even rougher going in this district created for Assemblyman Rick Lehman of San Jose. Republicans will try to use the reapportionment issue in this oddly shaped district.

DISTRICT 23 (57%D-33%R) — Reapportionment pushed Democrat Anthony Beilenson of Los Angeles further into the dangerous San Fernando Valley. One-time Berkeley radical Dave Armor, now an anti-busing conservative, is the GOP candidate. If Armor gets his way, busing will be the issue. Beilenson says busing is irrelevant to his job. The area votes Democratic except when busing is the pivotal issue.

DISTRICT 26 (59%D-31%R) — The Republicans will put some muscle behind businessman Hal Phillips in an attempt to keep Howard Berman busy at home and away from other districts where political associates are a tempting win. But it is unrealistic to think that Berman will be defeated.

DISTRICT 32 (60%D-30%R) — Political insiders at one time thought that former Lieutenant Governor Glenn Anderson of Hawthorne might be ripe for the plucking this year. But Anderson demolished Long Beach Councilman Edd Tuttle in the primary

and still looks like a winner. The Republican candidate is Brian Lungren, brother of Congressman Dan Lungren, and the name-recognition factor could help the GOP nominee. Anderson will have to work to keep his seat, especially if reapportionment takes him further into Long Beach.

DISTRICT 34 (65%D-26%R) — Democrat Esteban Torres of La Puente, who won a tough primary by a surprisingly large margin, must show he can win a general election — even in this heavily Democratic district — before he can be rated safe. Superior Court referee Paul Jackson, the GOP candidate, needs a barrel of money to make the race close, and he may get it if the Republicans have more money than they need.

DISTRICT 36 (58%D-30%R) — The Republicans will try to take advantage of signs of weakness shown in the 1980 contest by veteran George Brown Jr. of Riverside. But the district was improved a bit for Brown through redistricting, and he won't take reelection for granted. The GOP candidate, San Bernardino businessman John Paul Stark, may be hurt by the economic policies of the Reagan Administration.

DISTRICT 44 (58%D-27%R) — This district was jigsawed out of San Diego County to maximize the chances for the election of a Democrat. That Democrat will be County Supervisor Jim Bates, who ran a strong primary despite some adverse publicity. His opponent is Shirley Gissendanner, a black woman who works for a Republican congressman. Bates should become a member of the Waxman-Berman coalition in Congress, but he cannot be considered a cinch because a surprise is possible. This area was represented in large part by Democrat Lionel Van Deerlin until two years ago when he was upset by Duncan Hunter.



DISTRICT 2 (50%D-38%R) — Changes in territory never seem to hurt Republican Gene Chappie, who now lists his home in Chico.

DISTRICT 3 (57%D-32%R) — Without a Republican opponent, Democrat Bob Matsui of Sacramento is sending money to his political friends.

DISTRICT 7 (57%D-31%R) — Democrat George Miller of Contra Costa County is riding high after the defeat of the Peripheral Canal.

DISTRICT 8 (60%D-26%R) — Few Berkeley area Democrats know or care that Ron Dellums' opponent this year is the son of the former mayor of Berkeley, Claude B. Hutchison.

DISTRICT 10 (60%D-25%R) — Despite a shockingly low primary turnout, Congressman Don Edwards of San Jose should win handily and return to push the ERA.

DISTRICT 12 (44%D-43%D) — Computer disc impresario Ed Zschau won this

seat when he swept away all GOP opposition before the primary.

DISTRICT 13 (52%D-34%R) — Former San Jose Mayor Norm Mineta started to look shaky two years ago, but redistricting gave the Democrat a lift.

DISTRICT 16 (50%D-34%R) — Despite low Democratic registration, Leon Panetta of Carmel Valley is solidly entrenched. He's a Washington heavyweight who comes home every weekend.

DISTRICT 19 (49%D-37%R) — Veteran Republican Bob Lagomarsino of Ventura may be a touch more conservative than his constituents, but he hasn't had a rough race in 20 years.

DISTRICT 20 (47%D-42%R) — Republican Bill Thomas of Bakersfield should win by a huge margin over a token opponent.

DISTRICT 21 (43%D-46%R) — A large territorial shift has not hurt Republican Bobbi Fiedler in the slightest.

DISTRICT 22 (37%D-54%R) — Republican Carlos Moorhead of Glendale is so dull it's a wonder he isn't in this year's race for governor. But he's a winner.

DISTRICT 24 (58%D-29%R) — After this election, Democrat Henry Waxman of Los Angeles should emerge as one of the most powerful members of Congress.

DISTRICT 25 (70%D-20%R) — Democrat Ed Roybal of Los Angeles keeps rolling along, this year without even a GOP opponent.

DISTRICT 27 (56%D-31%R) — Assemblyman Mel Levine of Santa Monica will be a well-financed member of the Waxman "coalition."

DISTRICT 28 (75%D-17%R) — For Democrat Julian Dixon, getting elected the first time was the only problem. Surprise, he won his first term with help from the Waxman-Berman organization.

DISTRICT 29 (80%D-15%R) — Only an act of God could remove 75-year-old Democrat Gus Hawkins from his chosen profession, which is not retirement.

DISTRICT 31 (73%D-18%R) — Former Lieutenant Governor Mervyn Dymally, now of Compton, has found a home in the House.

DISTRICT 33 (46%D-45%R) — Republican Dave Dreier's only concern this year was his rough primary against fellow incumbent Wayne Grisham.

DISTRICT 35 (44%D-44%R) — Republican Jerry Lewis of San Bernardino is trying to position himself for statewide office.

DISTRICT 39 (40%D-49%R) — The Democrats will be forced to listen to two more years of lectures from Republican Bill Dannemeyer of Fullerton, a former Democratic assemblyman.

DISTRICT 40 (35%D-52%R) — A normal election is never a problem for veteran Bob Badham of Newport Beach.

DISTRICT 41 (41%D-42%R) — Freshman Bill Lowery of San Diego can coast this year after a tough race in 1980.

DISTRICT 42 (43%D-46%R) — Republican Dan Lungren of Long Beach moved into some new, safer GOP territory, which he didn't need to win.

DISTRICT 45 (44%D-41%R) — Republican Duncan Hunter of Coronado pulled a major upset in 1980, and this year he was given a safe district so that a Democrat could claim the new 44th district.

The ghost of Cordova in the fascinating 43rd

By LARRY PETERSON

Political analysts looked at the newly designed 43rd Congressional District last spring and concluded that "Democrats need not apply." That counsel was hardly surprising. The 43rd, which covers northern San Diego County and southern Orange County, has a registration advantage of 52-34 for the GOP. That makes the 43rd the most Republican congressional district in the state.

Nevertheless, three Democrats entered the primary. Roy (Pat) Archer emerged as the party's nominee and now he's telling reporters that he has been keeping an article from the *California Journal* indicating that no Democrat could be elected from the 43rd district. "When I win in November," he claims, "I'm going to write them and remind them what they said."

Archer's brashness is a bit premature. But followers of elections in this neck of the woods have been wondering out loud whether history is about to repeat itself in the short span of six years. They wouldn't be wondering if Archer faced only the official Republican nominee, 33-year-old San Juan Capistrano millionaire Johnnie Crean. Campaigning as a write-in candidate will be Carlsbad Mayor Ron Packard, who finished second in the GOP primary.

1976 similarities

The three-way contest in the 43rd is being compared to the 1976 election in the former 74th Assembly District. In that race, Democrat Ron Cordova beat Republican nominee Jim Slemons and Marian Bergeson, the GOP primary runner-up who, like Packard, entered the general election as a write-in candidate. (On her second try, Bergeson was elected to the Assembly in 1978.) The similarities between the two races are amazing:

- Much of the battleground is the same — northern San Diego

County and southern Orange County.

- Each district was without an incumbent and overwhelmingly Republican in voter registration, drawing a large field of candidates into the GOP primary — 11 in the 74th and 18 in the 43rd. It was widely assumed that the winner of the Republican primary



CREAN

ries would be a shoo-in in November. Democratic candidates were almost ignored.

- Both GOP primaries were won by political novices who spent lavishly (make that *very* lavishly for Crean, who shelled out almost \$900,000) but were able to attract only a small fraction of the vote. Slemons received 25 percent while Crean had to settle for 16.5 percent.

- Both Slemons and Crean shunned candidate forums and relied almost exclusively on direct-mail campaigns run by the premier hit team of California electioneering, Butcher-Forde Consulting of Newport Beach. Confident of victory, each departed for long European vacations after the primary.

- The ferocity of the Butcher-Forde attacks on their clients' opponents stirred many of the defeated candidates to unite behind a write-in effort by the GOP runner-up.

- In 1976 and this year, a conservative to middle-of-the-road candidate won the Democratic nomination.

Crean is attempting to benefit from close comparisons of the two situations because the Cordova precedent discourages Republicans from jumping on the Packard bandwagon for fear of throwing the race to Archer. For the opposite reason, Packard backers are stressing the differences in the 1976 and 1982 contests.

And the differences

Some of the differences are significant. Bergeson's write-in effort was mounted less than two weeks before the general election, while Packard's campaign was under way in mid-June. In 1976, Republican prospects, even in GOP strongholds like the 74th, were dimmed by the shadow of the Watergate scandal, which now is history rather than a campaign issue. And the old 74th Assembly district, which was erased from legislative maps by last year's reapportionment, was far from identical with the 43rd. The 74th occupied much of what is now the 43rd, but was smaller and included only a small portion of San Diego County. In contrast, the 43rd, while including a large portion of southern Orange County, is dominated by San Diego County.

That basic geographical distinction underlies another difference — one that works against Packard. Because of ballot mechanics, it is harder to run a write-in campaign in San Diego County than in Orange County. In the latter, all a voter has to do to vote for a write-in candidate is inscribe the name of the candidate in a space provided on the ballot card underneath the listing of ballot-qualified candidates for each race. In San Diego County, however, the voter must write the name not on the ballot card, but on the flap of an envelope into which the card is placed before counting. That may be one reason why Bergeson drew more than 34,000 votes in 1976 — believed to be the highest ever for a write-in effort in a state legislative race — while no state legislative write-in candidate in San Diego County has ever polled more than 5,000.

Larry Peterson is the political editor of The Register in Santa Ana.



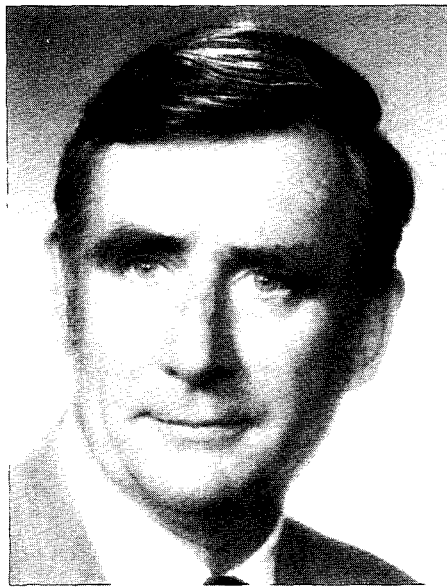
PACKARD

Lastly, unlike Slemons, Crean dumped Butcher-Forde before he departed for Europe. He also launched a major public relations effort to dispel the bad-guy image he acquired because of the slashing attacks on his opponents that led to condemnation by, among others, the ethics panel of the Orange County Republican Central Committee. Crean met with Republican leaders, staved off attempts to get the central committees in both counties to withdraw support for him, stopped Packard from getting the backing of the National Republican Congressional Committee, and launched a series of "get-acquainted" meetings with district voters.

Political mathematics

On the other hand, it is possible to overstate the differences as well as the similarities between the contests. Packard backers have been circulating voting statistics designed to show that Cordova's victory does not apply to the 43rd this year. Considerably more than twice as many Republicans as Democrats cast primary election votes, Packard supporters note. Therefore, they argue, even if the Republican vote were split down the middle, one of the GOP candidates would win.

Aside from the obvious fact that nothing forces voters of either party to vote for their party's nominees, that analysis overlooks two major points. The 74th Assembly District had an even more lopsided Republican voter registration margin than does the 43rd and the ratio of Republican to Democrat primary votes cast there was even higher than in the 43rd. Yet Cordova won. A credible argument can be made that Democratic turnout in this year's 43rd Congressional District primary



ARCHER

— 52.8 percent in contrast to 68.5 percent for the GOP — was unusually low. In contrast to local Republicans, who had the U.S. Senate candidacy of Mayor Pete Wilson and a hot gubernatorial primary as ballot-box drawing cards, the Democrats had no real donnybrooks to get them to the polls.

Strategies three

With the fall campaign about to move into high gear, this was the shape of the three campaigns:

Crean has retained the Los Angeles-based firm of Hoffenblum-Mollrich, which serves as consultant to the state Senate Republican Caucus. "First of all," says Allen Hoffenblum, partner of the firm, "we have to know whether there are two or three candidates in the race. That probably will be the determining factor in our strategy." Hoffenblum says it is an important goal of the campaign to get Packard out of the contest — the probability of which seemed slim in mid-summer. Nevertheless, Hoffenblum had scheduled a series of press con-

ferences intended to show broad and deep support for Crean within the GOP.

Assuming that Packard does bow out, he says, a "positive image campaign" on Crean's behalf will be in the works. If Packard stays in, Hoffenblum says. "Obviously, Johnnie has to wage a much more aggressive campaign." Hoffenblum insisted that he was not referring to a smear attack a la Butcher-Forde. But Crean has not ruled out attacking his opponents as a tactic if the outcome appears to be in doubt. "In any case," says Hoffenblum, "we will try to get them to know the real Johnnie Crean, the individual. . . . Right now people know him mostly by something they got in their mailbox and a lot of bad press just before and after the primary."

Hoffenblum said the general election effort will not be as dependent on direct-mail as the primary campaign. Considerable emphasis, he said, will be placed on advertising on San Diego television and radio stations as well as getting free exposure through those media. He declined to even estimate how much Crean expects to spend, saying that will depend mostly on whether Packard can be convinced to get out of the race. However, the travel-trailer manufacturing tycoon reported loaning his own electioneering effort more than \$500,000 for the primary. The best guess is that there is plenty more where that came from.

Packard initially was quoted as saying he expected to spend \$325,000 for the general election, but Glenn McComas, his campaign chairman, has scaled that down to \$200,000. Aside from convincing voters that Crean, who beat Packard by 100 votes, would not have won without dirty tactics, McComas said, Packard's main effort will be to educate voters in the mechanics of casting a write-in vote. Packard also will emphasize endorsements from local Republican leaders,

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such as state Senator Bill Craven and Assemblyman Bob Frazee. Packard is relying on a paid staff of only two persons, and he has hired Ronald Reagan's polling firm, Decision-Making Information of Santa Ana.

The primary reliance, McComas said, will be on 500 persons who have signed up to do volunteer work for the campaign. In August, he said, some 60 actually were on the line, with the others expected to be mobilized after Labor Day.

Archer is being forced to place an even heavier reliance on the "grass roots," that predictable last resort of an underfunded campaign. He spent less than \$5,000 in the primary and said the most he could raise for the general is \$70,000. He expects to mobilize 700 because there is "little or no contest" in other northern San Diego County or southern Orange County legislative races. Democrats interested in helping in local campaigns will gravitate to his effort almost by default, he predicts.

Archer doesn't see Packard as a "serious threat" to win, but argues that, like Bergeson, the Carlsbad mayor can drain off enough votes for the Democrat to duplicate Cordova's feat. To do that, he must "deliver the Democrats in a bloc vote" and get heavy support from independent or

minor-party voters, who represent 14 percent of the district's registration.

All three campaigns are mulling the role that debates could play in the race. Because "the circumstances in which Johnnie Crean finds himself are highly unusual," the Republican nominee "is seriously considering" a series of face-to-face confrontations with Archer, but not if Packard is included, Hoffenblum says. For his part, Packard "may well" seek to debate Crean, Archer or both, McComas says. Indeed, some Packard supporters have observed, Packard can only benefit from a debate with Archer in which Crean refuses to participate. That gives the write-in candidate a chance to promote his image as the Republican alternative to Democrat Archer. Archer, for 17 years an instructor of government at Palomar College, figures he can only gain from forensic exchanges with his opponents. He's given the green light to debates with Packard, Crean, or both. "If Crean doesn't show," he says, "Packard and I could sit there and fire insults at an empty chair."

Aside from personalities and a rehash of the controversy surrounding Crean's primary election campaign tactics, Crean and Packard may well have little to debate about. Both are running as staunch advocates of Presi-

dent Reagan's economic programs and a strong national defense. Archer describes himself as a "middle-of-the-road" Democrat and says he will make "the failure of Reaganomics" the centerpiece of his campaign. He plans to urge voters to send him to Washington as a vote against what he describes as the "trickle-down" theories of Herbert Hoover and for the Roosevelt "pump-priming" policy of creating jobs.

The difference in outlook between Archer and his GOP foes illustrates that the race in the 43rd District has some things in common with other contests. The outcome could be determined in part by what is happening 3,000 miles away. As is the case in potentially close contests elsewhere, much will hinge on voters' perception of how well the Reagan Administration is coping with the economy.

Yet the nature of the 43rd is such that, under normal conditions, no Democrat would have a chance of carrying the district. But this is far from a normal election, and several questions remain to be answered: Can Johnnie Crean establish a favorable new reputation for himself? Can Ron Packard convince voters in unprecedented numbers that they should write in his name and reject the GOP nominee? And is Pat Archer really Ron Cordova struggling to be reborn? 🏛️

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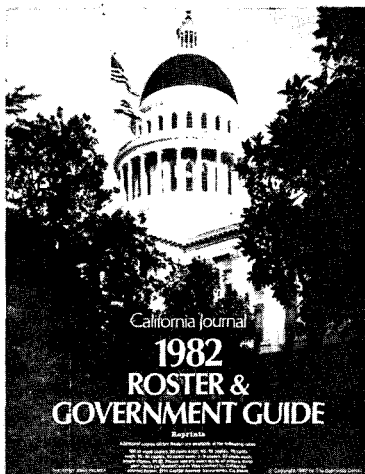
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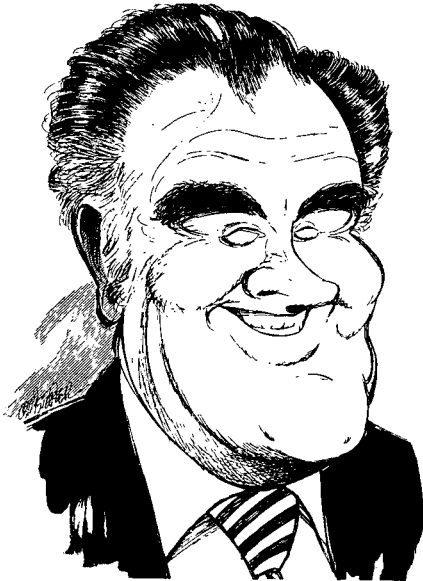
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Bitter chocolate for Clausen: Bosco's flavor on the North Coast



CLAUSEN



BOSCO

By ALLAN ERICKSON

Along California's North Coast, there is strong suspicion these days that an institution may be about to crumble. Mild-mannered Don Clausen, 20 years a Republican congressman, is in deep re-election trouble, and he knows it. Clausen seems to have two opponents — an aggressive young Democrat and the head of his own party, President Ronald Reagan.

Clausen's constituents have been watching their savings accounts evaporate, and many of them are blaming Reaganomics. Every time a sawmill shuts down, Clausen's re-election chances suffer another blow. Thus, it is no mystery why Crescent City's Clausen sings softly in the Reagan choir. He has never been a congressional soloist, and he has not been successful in changing the policies of the administration. He has tried to block Interior Secretary James Watt's plan to drill for oil along the California coast to no avail. Voters can't blame Clausen for their economic problems,

Allan Erickson is a reporter with television station KVIQ in Eureka.

but some will undoubtedly seek a stronger leader to help them economically and perhaps psychologically.

And that leads to Clausen's opponent, Assembly Democratic Caucus Chairman Doug Bosco, 36, by far the toughest opponent the congressman has faced in many a year. Bosco, an Occidental attorney, has a reputation as a hustler who has shown a talent for raising money and making friends among the diverse interest groups in the territory ranging from Sonoma County north to the Oregon border.

Clausen, 59, recognizes all this but sees a ray of light. Growing numbers of liberal voters accuse Bosco of selling out environmental interests to broaden his political base. Clausen thinks many of these Democrats may vote for him in November.

A Bosco boast

This contest is the reverse of the norm. Bosco is running like the incumbent. His campaign literature states boldly: "Doug Bosco is the most popular political figure on the North Coast . . . He will be elected to Congress." Bosco is so confident that he thinks a debate would benefit Clausen rather than himself — even though Bosco is

probably the more mediagenic of the two. Clausen is running as though Bosco is ahead and must be chopped down with attacks on his record.

Bosco is a member of the Democratic power elite in the Assembly. He gets his way on natural resources issues that are so important to the North Coast, and he works closely with state Senator Barry Keene, another past master at juggling the environmental and economic interests of the region. "In some ways, I give up a little independence by the fact that I can get anything I want through the Legislature," according to Bosco. His job requires that he help his colleagues pass their bills and raise campaign funds. "So I have to twist arms, and sometimes I have to play hardball. In exchange, I don't have to work as hard on my own legislation," he explains.

Bosco claims that the fishermen are solidly behind him and that he is backed by two-thirds of the timber industry. He has carried legislation on behalf of environmentalists, and he has been able to win a reputation as a leader in the fight against rising utility rates. In other words, he knows how to work the territory.

But environmentalists complained

when Bosco refused to fight the timber companies over use of a controversial herbicide and when he worked to scale down the state Wild and Scenic Rivers Act to the advantage of the timber industry. Conservationists were also angered by the assemblyman's support of offshore salmon trollers in their efforts to fight federal restrictions on their fishing time. Bosco authored a bill making the sale of gill-netted salmon from the Klamath River a felony. Thus, he singled out Indian fishermen on the river for punishment.

Returns from 'Ecotopia'

Skirmishes with the environmentalists have led some political strategists to surmise that Bosco is not as strong in "Ecotopia" as he would like to believe. June primary returns indicate that may be true. Mike Koepf, a commercial fisherman from Mendocino County, ran against Bosco for the Democratic nomination. He had no name recognition and little money. He attacked Bosco as a friend of big business and for accepting \$44,000 in special-interest contributions. Koepf collected almost 21,000 votes compared to Bosco's 57,000 and Clausen's 54,000. Clausen says he need only capture a good portion of Koepf's supporters to thwart Bosco's challenge. But environmentalists and leftists have been unwilling to support Clausen. If they don't vote for Bosco, that doesn't mean they will vote for Clausen.

The political makeup of the First Congressional District is 51-33 Demo-

cratic. And the recent redistricting process made matters worse for Clausen. He lost Napa and Lake counties, traditional Republican strongholds. He picked up Glenn and Trinity counties, with fewer voters and less familiarity with the incumbent. Voters in Humboldt and Del Norte counties, Clausen's home turf, have turned him down in recent elections. Mendocino County should give Bosco the nod. So both candidates see Sonoma County as showdown country.

The keys to the election are the first, second and third supervisorial districts in Sonoma. Half the district's voters live in Sonoma County. The fourth and fifth districts lie in Bosco's Assembly terrain and he is expected to carry those areas, according to analysts on both sides. Biggest among the concerns of Sonoma voters are land-use planning, agricultural preservation and economic development. Bosco has been working the territory. When Reagan's budget cuts withdrew federal dollars for a marina project on Bodega Bay, Bosco jumped in and convinced the state to finance the project — much to Clausen's chagrin.

"Clausen has never passed a bill, he has never really stood for anything, he has just been there," Bosco says. "I just have to come somewhere near him in Sonoma." The veteran congressman shrugs off the charge that he is ineffective. "Each campaign that I've engaged in, that same charge has been directed toward me," he says. "I would expect that kind of thing to continue.

The Congress operates differently than the state Legislature. Most of the legislation that is passed are committee bills."

The Stockman story

Clausen cited one legislative triumph, the passage of a measure which set aside land in southern Humboldt County as wilderness. Clausen's critics, however, say that the proposal was actually prepared by others in the House and that Clausen is taking credit where little is due.

Clausen has been seen at the elbow of budget director David Stockman on national television. Stockman was to speak at a fund-raiser for Clausen in January in Santa Rosa, the largest city in the district. But one month before Stockman was to appear, the *Atlantic* magazine ran the article detailing Stockman's misgivings about the president's economic recovery program. All of Stockman's speaking engagements were cancelled and Clausen was left in a bind. He had been embarrassed in the heart of his district and there was nothing he could do about it.

To make things worse, the president vetoed a housing-stimulation package supported by Clausen. Reagan kicked sand in the face of the timber industry, piercing Clausen's attempt to help the economic mainstay of the North Coast. Clausen's traditional support from loggers and labor fell off substantially in 1978 when Redwood National Park was enlarged. The park legislation, authored by Congressman Phil Burton of San Francisco, included a compensation package for workers displaced by the protection of old-growth redwoods. In the last four years, more than \$50 million has been pumped into Humboldt and Del Norte counties for those laid off. A few months ago, the president's budget plan proposed cutting the worker bailout in half. Labor protested long and loud. Clausen's press people put out the word that the congressman supported the president's cuts. The workers were outraged. Clausen then declared that his press agents had made a mistake and that he really would fight to save workers' benefits. Eventually, he effected a turnaround on the budget cuts, but not until he had suffered a further loss of labor support.

The November election will be a field test for the Reagan Administration and the toughest political struggle of Clausen's career. Both candidates have plusses and minuses working for and against them. Clausen's task is to find or create a gaping hole in Bosco's image. Otherwise, the youth and energy of the Democrat should end the Clausen era on the North Coast. 🏠



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November 1982

California Journal Ballot Proposition Analysis

The 15 statewide ballot propositions facing California voters on November 2nd fall into three even packages of five measures each. But while they may be equal in numbers the similarity stops there. The first five are bond-issue proposals similar to those on most statewide ballots — except that there are more of them than usual this time. The middle five consist of relatively inconsequential constitutional amendments proposed by the Legislature. And the final five is where the action is — initiatives dealing with such hot subjects as nuclear weapons and gun control. During the campaign season, most of the money spent on propositions will be designed to defeat or pass measures 11 through 15.

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SCHOOL CONSTRUCTION BONDS

1

This proposal would provide for the issuance of \$500 million in bonds for the repair and construction of public schools.

Background: Traditionally, California school districts have obtained funds for the construction of new schools (or for overhaul of old ones) from the sale of bonds or from loans from the state. Proposition 13 eliminated the ability of school districts to obtain the tax proceeds to pay off bonds or to repay state school-building construction loans. In the wake of Proposition 13, the Legislature came up with a new method for financing school construction projects. Under the School Building Lease-Purchase Act, the state provides the funds for new facilities and rents the buildings to local districts at a nominal fee. Eventually, title for the structures passes to the hands of the districts.

The proposal: If this bond issue is approved, the state would be able to sell \$500 million in general-obligation bonds to provide funds under the lease-purchase program. No more than \$150 million of the proceeds of the bond sale could be used to modernize present school buildings. Assuming that the bonds are sold at 11 percent and are retired on a 20-year schedule, the interest cost would be about \$600 million, raising the cost of this proposal to \$1.1 billion.

Arguments for: Proponents of Proposition 1 argue that many of California's old schools are falling apart and that

new classrooms are needed in some communities experiencing explosive enrollment growth. Overcrowding has forced some districts to increase class sizes, shorten the school day and put children on double sessions, or use makeshift classrooms. School districts cannot raise the funds to solve these problems, according to sponsors of the measure, and state assistance is necessary. Assemblyman Art Torres, author of the proposition, emphasizes that money will not be given to districts until they meet stringent state standards.

Arguments against: The opponents claim that it does not make sense for the state to go into debt during these times of extremely high interest rates. State Senator Alfred E. Alquist, chairman of the Senate Finance Committee, estimates that the interest bill will increase the cost of the bond issue to \$1.3 billion. He also points out that overall student enrollment has been declining. Opponents also argue that most old schools in the state were repaired during the 1970s so that earthquake hazards could be eliminated. Alquist maintains that new structures should be financed out of current state revenues, not by placing future generations deeply into debt.

JAIL CONSTRUCTION BONDS

2

This proposal would provide for the issuance of \$280 million in bonds for the construction of county jail facilities.

Background: Last June, California voters approved a \$495 million bond issue for the enlargement of the state prison system. This companion bond issue stems from the same basic problem: overcrowding that has been produced by the state's crackdown on crime. California's 58 county jails were designed to house about 33,000 inmates. On a typical day, they now hold about 37,000 prisoners. On weekends, drunk-driving suspects boost the total above 40,000. County jails are used to house those awaiting trial or those convicted for relatively minor crimes. It is anticipated that the state's new drunk-driving laws may increase the number of inmates substantially. In a few counties, courts have imposed limits on the number of prisoners.

The proposal: If Proposition 2 is approved, the state will be able to sell \$280 million in general-obligation bonds to finance the construction and repair of county jails. Counties would be required to provide \$70 million in matching funds, and the state Board of Corrections would control the flow of state funds to counties. If the bonds are sold at 11 percent interest over 20 years, the total cost of the measure would be about \$600 million.

Arguments for: State Senator Bob Presley, former undersheriff of Riverside County and author of the proposal, claims there are three prime reasons why Proposition 2 should be approved: 1 — Jails are old, overcrowded and now house dangerous inmates they were not designed to handle. 2 — California is now sending more offenders to jail for longer terms, and the facilities must be available to house these prisoners. 3 — Local government cannot obtain funds to build jails because of Proposition 13 limitations.

Arguments against: Opponents, including officials of the Libertarian Party, claim that the measure is a boondoggle that will cost Californians up to \$800 million because of high interest rates. The Libertarians argue that jail overcrowding could be ended simply by eliminating so-called victimless crimes involving drug use, voluntary sexual activities and gambling. California has one of the world's highest incarceration rates, the opponents claim, and rejection of this measure will force officials to lock up only real criminals, not "peaceful citizens."

CAL-VET BONDS

3

This proposal would provide for the issuance of \$450 million in bonds for the state's farm-and-home program for veterans.

Background: Starting in 1921, California voters on 19 occasions have approved the issuance of bonds totaling \$4.7 billion to provide low-mortgage farms and homes for the state's veterans. This Cal-Vet program allows the state to borrow funds at cheaper-than-market interest rates and pass on the savings to qualifying veterans. Current law sets the maximum loan at \$55,000 for a home and \$180,000 for a farm.

The proposal: Under this plan, another \$450 million in general-obligation bonds would be sold to provide about 8,500 new farm and home loans. If the bonds are sold at the maximum interest rate and retired in 25 years, the total cost of the proposal would be about \$1.17 billion. However, the loan program has always been funded through payments by participating veterans.

Arguments for: The proponents claim that Cal-Vet loans are needed now more than ever because of the high interest rates and the need to uplift the state's sagging economy. Over the years, they say, some 375,000 California veterans have benefitted from this program and there is no reason to stop it now.

Arguments against: This is hardly the time for the state to entertain any major debt program because of high interest rates, according to opponents. Benefits for veterans should be provided by the federal rather than the state government, especially now that the Cal-Vet program gives participants such an advantage over others attempting to buy homes in a difficult mortgage market.

TAHOE LAND ACQUISITION

4

This proposal would provide for the issuance of \$85 million in bonds for the acquisition of land in the Lake Tahoe area.

Background: In recent years, governmental action has restricted the ability of property owners to develop their parcels in the Lake Tahoe region. Attempts have been made on several occasions to have the state purchase parcels that have recreational value and that might be developed to the detriment of the ecology of the area.

The proposal: If this proposition is approved, the state will be authorized to issue \$85 million in general-obligation bonds to acquire undeveloped parcels in the Tahoe area. Proceeds could be used to buy lands threatened with devel-

opment to the detriment of the basin, lands with recreational or ecological significance (such as shoreline property), or lands connecting other parcels already in public ownership. Properties scheduled to be acquired by the federal government could not be bought by the state. It is estimated that the \$85 million will allow for the purchase of 5,000 parcels. If the bonds are sold at the maximum interest rate of 11 percent and retired in 20 years, the total cost of the measure would be \$183 million.

Arguments for: State Senator John Garamendi, sponsor of the measure, claims Proposition 4 is needed to protect one of

California's scenic treasures, Lake Tahoe. In an effort to preserve the pristine quality of the lake's water, property owners in many instances have been prohibited from building on their land, and this measure will give them fair compensation. A special commission will be formed to guarantee that the rights of the public are protected during the purchase process.

Arguments against: The same fiscal argument has been pre-

sented against Proposition 4 as against other proposed bond issues — that high-interest rates make this the wrong time for the state to go into debt. Opponents also claim that the tourist industry in the Tahoe area benefits most from this proposal, and thus only those who reap financial benefits should pay for acquisition of these lands. Citizens from throughout the state should not be forced to pay for a program that will solve local economic and environmental problems.

5

FIRST-TIME HOME BUYERS

This proposal would provide for the issuance of \$200 million in bonds for reduced-interest mortgages.

Background: The California Housing Finance Agency now has the authority to sell revenue bonds to finance housing for low- and moderate-income families. The agency does not have authority to issue lower-interest general-obligation bonds. (Revenue bonds are backed by the income derived from the mortgages, while general-obligation bonds would be backed by the full faith and credit of the state.)

The proposal: This measure is designed to stimulate the housing market and provide \$200 million in bonds for those the Legislature feels are now least able to cope with the housing market. Under this plan, the bond funds would be used to help individuals purchasing owner-occupied units and who have not owned residential property for three years. The three-year limitation would not apply to homes being bought in areas of economic distress.

Here is how the system would work: The state would funnel the funds through private lending institutions so that interest rates could be 5 percent below market level in the first year of a mortgage. The interest rate would rise gradually over the next five years; at the end of the sixth year, the rate would be equal to the market rate determined when the loan was obtained. Borrowers would be required to pay back the interest savings under a variety of repayment plans. Thus, the plan offers no long-run savings but may allow Californians to buy homes in the expectation that their income

will increase over the years so that they can pay off the loans.

The legislative analyst has estimated that the \$200 million bond issue will cost \$341 million in interest if the bonds are sold at the maximum rate of 11 percent and retired in 30 years.

Arguments for: The proponents claim that a plan like this is needed to provide housing opportunities for first-time homebuyers and to stimulate the state's construction industry. Assemblyman Bruce Young, author of the measure, emphasizes that the short-term mortgage assistance will not cost taxpayers any money because the program will be self-supporting. He points out that there is nothing unusual about this plan because it is similar to the Cal-Vet program, which has never cost the taxpayers a dime.

Arguments against: The opponents maintain that Proposition 5 will not work because it is a gimmick that will produce foreclosures and bankruptcies. An organization called "Taxpayers Against Bureaucracy" estimates that this proposal would service fewer than 9,000 homebuyers and would result in astronomical monthly payments for each family suckered into the program. The reason, they say, is that at the end of six years, each participant will be faced with full current interest, plus repayment of the "buy-down," plus interest on the fee, plus a share of the program overhead.

6

RETIREMENT FUND INVESTMENTS

This proposed constitutional amendment would allow greater flexibility in the investment of government employee-pension funds.

Background: The state constitution now allows public pension funds to invest up to 25 percent of their assets in common stocks. Strict limitations are placed on the eligibility of stocks that can be bought. Essentially, the pension plans are limited to large blue-chip companies. These provisions apply to the Public Employees' Retirement System, the State Teachers Retirement System and local-government pension funds.

The proposal: If this measure is approved, the Legislature will be allowed to lift the common-stock limit from 25 to 60 percent of a fund's total assets. No more than 5 percent of assets could be invested in shares of companies that do not meet the blue-chip requirements now in the constitution. One-half of 1 percent of a fund's assets could be placed in limited partnerships or corporate securities that are not traded on a public exchange. The proposition includes guidelines designed to guarantee that funds will be invested in a prudent manner and that risk of large losses will be minimized.

Arguments for: State Senator Barry Keene, author of the measure, claims that pension-fund managers now are not

able to make the most productive investments because of the limitations in the constitution. The result is a reduction in benefits for retirees and/or a larger burden on taxpayers. Over the years, he points out, returns on common stocks have been higher than those on bonds. This measure allows investment managers to respond to market conditions and to invest some money in small, rapid-growth companies. This flexible investment policy, according to Keene, will produce better results for the fund and help stimulate the state's economy.

Arguments against: State Senator H. L. Richardson has a colorful way of describing his opposition to the measure — "Las Vegas, here we come!" Richardson maintains that this measure would increase the danger of loss by allowing pension fund managers to roll the dice in the stock market. The state should continue to invest in a "prudent mix" because this measure could endanger the fiscal security of retirees, Richardson says. The senator also feels that retirement fund board members are not qualified to play the stock market, especially at times when even professionals are having difficulty picking winners.

FIRE-SAFETY TAX EXEMPTION

7

This proposed constitutional amendment would provide an exemption for fire-safety systems from property-tax reassessment.

Background: Under Proposition 13 of June 1978 (the Jarvis-Gann initiative), parcels of real estate are reappraised for property-tax purposes when sold or constructed. Otherwise, the annual tax increase is limited to 2 percent. In the event a structure is modified or enlarged, only the portion of the property which has undergone construction is subject to reappraisal.

The proposal: This measure would provide an exemption from the modification provision of Proposition 13 for fire-alarm and fire-sprinkler systems. If Proposition 7 is approved the Legislature would be allowed to exempt these systems from reassessment until after the property is sold. At that time the entire property — including the fire-protection devices — would be reappraised at market value.

Arguments for: Assemblyman Nolan Frizzelle, author of the proposal, claims the exemption is needed to motivate prop-

erty owners to install fire-safety systems. Under current law, he says, the reassessment provision of Proposition 13 discourages property owners from purchasing systems that could prevent loss of life and possessions. Frizzelle maintains that this proposal will protect citizens using commercial buildings and the cost to the public is nothing.

Arguments against: The opposition argues that Proposition 7 constitutes another piecemeal exemption to Proposition 13 instead of a wholesale revision of the unjust provisions of the law. Attorney Timothy D. Weinland, who wrote the official ballot-pamphlet argument against the measure, maintains that Proposition 13 should be changed so that all taxpayers are treated alike. Under present law, two homeowners with identical side-by-side homes can be paying different amounts of property tax. The Proposition 7 exemption, he adds, will benefit wealthy corporations and individuals owning commercial property.

LOCAL-GOVERNMENT FUND TRANSFERS

8

This proposed constitutional amendment would allow city and county treasurers to increase the amount of fund transfers between government agencies.

Background: Government agencies tend to receive their revenues from various sources on a seasonal basis, depending upon when major tax payments are due. But government expenses are relatively even throughout the year. The state constitution now allows cities and counties to make temporary transfers to funds or to sell tax-anticipation notes to solve cash-flow problems. Transfers now are limited to 85 percent of the tax revenues which a borrowing agency is expected to receive in any fiscal year.

The proposal: Proposition 8 would allow transfers to include 85 percent of all revenues anticipated by a governmental subdivision, not only tax income. Since the passage of Proposition 13, local government has depended more

heavily on fees and user charges to obtain funds. By including anticipated revenues from these sources, larger temporary transfers could be made.

Arguments for: Assembly Lawrence Kapiloff, sponsor of Proposition 8, maintains that local governments are finding it harder and harder to meet day-to-day expenses during the summer and fall months. This measure offers a solution to the cash-flow problem without increasing taxes.

Arguments against: The opposition claims that this measure constitutes an invitation for local government to mismanage its funds by employing a form of deficit spending. Government entities should not be given further power to spend funds that are only anticipated and not guaranteed.

PRIVATE SCHOOL TEXTBOOKS

9

This proposed constitutional amendment would reestablish a state textbook-loan program for private schools.

Background: Until last year, the state Superintendent of Public Instruction was required to lend textbooks and instructional materials to students attending tax-exempt private schools (grades kindergarten through eight only). The cost of this program was \$3.6 million in the 1980-81 fiscal year. In 1981, the state Supreme Court ruled that this program violated the state constitution.

The proposal: This measure would amend the constitution so that the Legislature could reestablish the loan program. There would be no eighth-grade limitation, but it could apply only to textbooks. No loans could be made to pupils attending schools which exclude students because of race or color. And funds appropriated for public schools could not be used for this program.

Arguments for: State Senator Alan Robbins, author of Proposition 9, claims the proposal is fair to all Californians because all parents pay taxes to purchase state textbooks. He

asks: "Is it fair to exclude some children from using these books because of the school they attend?" According to Robbins, it would cost the taxpayers \$1 billion a year if all private-school students enrolled in public schools. Some severely handicapped children, proponents argue, must attend private schools because public school districts do not have adequate programs for these youngsters.

Arguments against: Assemblyman Herschel Rosenthal maintains that the so-called loan program amounts to a gift of \$4 million a year in public funds at a time when tax dollars are increasingly scarce. He points out that 58 percent of public schools are religious and that these schools would be the prime beneficiaries of this proposition. The constitution guarantees individuals the right to attend religious schools, he added, but not at public expense. This measure is "a smokescreen for government handouts to private and religious institutions," Rosenthal claims.

TRIAL COURT CONSOLIDATION

10

This proposed constitutional amendment would allow counties to merge their superior, municipal and justice courts.

Background: California now has three types of trial (as opposed to appellate) courts — superior, municipal and justice. The superior courts handle felony criminal cases and civil trials involving more than \$15,000. The municipal courts in large communities and the justice courts in smaller communities handle criminal misdemeanors, infractions and civil cases involving less than \$15,000. There are now about 640 superior, 500 municipal and 95 justice court judgeships in the state.

The proposal: If Proposition 10 is approved, the Legislature could authorize counties to merge their municipal and justice courts into the superior court. Unification could not take effect unless county voters approve the plan. All cases that now can be appealed to the superior court would be heard by a panel of superior court justices. In effect, municipal and justice court judges would be upgraded to the rank of superior court judge and would receive salary and pension-benefit increases.

Arguments for: Proponents of Proposition 10 claim California's trial courts now are inefficient because of the artificial divisions that produce duplication and delay in the hand-

ling of cases. In a unified system, the workload could be distributed more evenly, and all recordkeeping could be centralized at a substantial savings to the taxpayers. A unified-court experiment has been conducted in San Diego County for five years and has been successful, according to Senator Omer Rains, author of the measure. Rains claims that every neutral study during the past three decades has shown that unification will save money, reduce delay and enhance justice. And he emphasizes that merger would take place only in counties where the voters approve it.

Arguments against: The opponents, which include the State Bar and the District Attorneys Association, claim Proposition 10 is a hoax that will give municipal judges pay raises of almost \$6,000 a year and destroy the "People's Court." The present two-tier system is effective and should not be altered, they maintain, and it is not realistic to expect a panel of Superior Court judges to consider appeals from their colleagues' decisions. A plan that would give pay raises to judges, they emphasize, is not court reform but fiscal fiasco. If the experiment in San Diego was so successful, they ask, why are the county's district attorney, bar association and a majority of Superior Court judges opposing the proposition?

BEER AND SODA-POP CONTAINERS

11

This initiative statute would require that each empty beer and soft-drink container have a refund value of at least five cents.

Background: Beer and soft drinks are now marketed in California in throw-away and returnable containers. About 60 percent of the aluminum cans used as beverage containers are now being recycled. About 40 percent of the glass bottles are "refillable" and are usually returned to the bottlers for reuse. Most of the remaining containers are discarded as litter or buried in landfills. Nine states now have laws requiring that empty beverage containers be redeemable for cash. In those states, more than 90 percent of the containers are returned for refunds.

The proposal: This proposal, which qualified for the ballot by initiative, would require that every empty beer, ale, malt liquor, mineral water, soda water and carbonated soft drink container be redeemable for at least five cents. If approved, the measure would become effective on March 1st, 1984. After that date, retailers would be required to pay the refunds for products they sell. Consumers also could return containers to redemption centers. Retailers and redemption centers would be paid a 20 percent handling fee by wholesalers and bottlers.

The Legislative Analyst reports that there is no conclusive evidence yet from other states regarding the impact of refund laws on government revenues. However, the analyst feels that the proposal would reduce litter-cleanup and waste-disposal costs. The impact on employment, corporate profits and tax revenue cannot yet be forecast.

Arguments for: Californians Against Waste, the environmentalist organization that qualified the measure for the ballot, claims that similar laws in states like Oregon and New York are highly successful. They predict that passage of Proposition 11 will help clean up the state by eliminating

80 percent of container litter and save the public a large slice of the \$100 million a year now spent to clean up litter. They argue that the measure will also reduce the quantity of trash, saving communities a great deal of money and easing the pressure for cities to find new dump sites. In addition, they claim the proposal will save a great deal of energy, water, glass, aluminum, steel and other materials. Because drinks in refillable containers are usually cheaper than those in throw-away bottles and cans, consumers will save money. And, they claim, a returnable system will produce thousands of new jobs for grocery clerks, truck drivers and recyclers. They warn that the main opponents are large industries that sell throwaway containers.

Arguments against: The opponents, which include the California Grocers Association, claim that experience in other states should lead California voters to reject the proposal. They say it will increase prices, destroy voluntary recycling programs, increase the use of fuel and water, eliminate jobs in manufacturing plants and create sanitation problems in food stores. They point to a Chapman College report concluding that beer or soft drink prices could rise \$1.44 a case and increase consumer payout for beverages by \$319 million a year. The 20 percent handling fee, they say, would add \$110 million a year to the California beverage bill. California already has the most effective voluntary recycling program in the country, and this mandatory law is not necessary. Opponents warn that many cans and bottles will be returned in filthy condition, causing grocery stores to use chemical sprays to combat rodent and insect infestations. It does not make sense, the opponents stress, to punish all Californians because of the thoughtlessness of a minority of the people who are litter bugs.

BILATERAL NUCLEAR WEAPONS FREEZE

12

This initiative statute requires the governor to write a letter urging the United States and the Soviet Union to halt the nuclear arms race.

Background: California voters have never before been confronted with this type of ballot measure. It employs a section of the United States Constitution which allows the people to petition their government to express their views.

The proposal: This measure qualified for the ballot through an initiative drive spearheaded by businessman Harold Willens of Los Angeles. It is designed to pressure the United States Government to work more aggressively to end the extensive development of nuclear weapons for military purposes. If this proposition is adopted, the governor will be required to send a letter to the president, the secretary of defense, the secretary of state and all members of Congress before the end of this year. The letter:

The people of the State of California, recognizing that the safety and security of the United States must be paramount in the concerns of the American people; and further recognizing that our national security is reduced, not increased, by the growing danger of nuclear war between the United States and the Soviet Union which would result in millions of deaths of people in California and throughout the nation; do hereby urge that the Government of the United States propose to the Government of the Soviet Union that both countries agree to immediately halt the testing, production and further deployment of all nuclear weapons, missiles and delivery systems in a way that can be checked and verified by both sides.

Arguments for: Proposition 12, the nuclear freeze letter, is designed as a first step in preventing a nuclear holocaust. It

calls for both the United States and the Soviet Union to stop further testing, production and installation of nuclear weapons and to make the agreement verifiable. The proponents claim that the United States has 30,000 nuclear weapons and the Soviets 20,000 — more than enough to destroy each other. They say this measure is needed now because the risk of accidental war is increasing. Warning time is being cut to six minutes and a computer error could trigger an accidental war. The only way the arms race can be ended, the proponents maintain, is for the people to raise their voices and prevent the politicians from bringing the human race to the brink of extinction. The ballot-booklet argument in favor of the proposition was signed by Owen Chamberlain, Nobel Laureate in physics, retired Brigadier General Homer A. Boushey of the Air Force, and John H. Rubel, former assistant secretary of defense.

Arguments against: The opponents say the Soviets need to be sent a message in the form of a no vote because the freeze would undercut the bargaining position of the United States. A freeze, they argue, would preserve the current Soviet nuclear-arms advantage over the United States. The Soviets have adamantly refused to allow on-site inspections of their facilities, and that would be the only way to guarantee that a freeze is not being violated. They emphasize that the Soviets have proven time and again that they cannot be trusted, and they could be expected to violate a freeze agreement. A no vote, they emphasize, would give President Reagan his best chance to reduce the threat of war at the Strategic Arms Limitation Talks. The ballot-booklet argument against Proposition 12 was signed by retired Admiral U.S. G. Sharp of the Navy and Robert Garrick, former deputy counselor to President Reagan.

WATER CONSERVATION

13

This initiative statute would establish new conservation standards for the state's water supply.

Background: This is the second time this year California voters are being asked to decide complex water issues. In June, the electorate rejected the Peripheral Canal plan approved by the Legislature. In November, the issue will be a measure sponsored by environmentalists and designed to force farmers to conserve water. Some facts that might be helpful in understanding Proposition 13: About 60 percent of the water used in the state comes from surface supplies such as rivers, lakes and streams. The remaining 40 percent is pumped out of the ground from wells. About 85 percent of the water used in the state is for agricultural purposes. Most of the state's water is not located in the same area where cities and farms have been developed; as a result, governmental agencies have constructed aqueducts to carry water from north to south. In some areas, so much water is being pumped from the ground that some wells eventually may run dry.

The proposal: This proposed statute, which qualified for the ballot under the sponsorship of an organization called the California Water Resources Protection Council, contains introductory policy statements plus four main sections. The preface sets forth the presumed need for the conservation of the state's water resources and the need for the enactment of

controls to make more efficient use of the state's water supplies. The four control sections:

Water conservation. This section requires that agencies supplying or transferring significant amounts of water must develop water-conservation programs. No water may be transferred between basins until the state Water Resources Control Board determines that the conservation program is being implemented adequately. The conservation program, which must be submitted to the board by the end of 1984, must include all reasonable methods of conserving water, such as wastewater reclamation and changes in water pricing. Any alternative that would cost less than the importation of additional water must be implemented before additional water can be imported. The obvious purpose of this section is to force farmers to conserve water.

Stream protection. This section is designed to protect the aesthetic, scientific and water-quality standards of streams and lakes. It allows the state Water Resources Control Board to control undeveloped waters for these purposes. It could also require anyone who takes water from a stream or lake with resulting adverse environmental impact to offset those adverse impacts. In effect, this provision would make it impossible for water suppliers to endanger

the ecological quality of a stream or lake. In part, this section was prompted by the controversy over the use of Mono Lake water by the Los Angeles area.

New Melones Reservoir. This section would place stringent restrictions on the filling of the reservoir behind the controversial New Melones Dam on the Stanislaus River. The restrictions are accomplished through the establishment of minimum prices for water from the reservoir and by requiring generally that the federal government obtain contracts for 75 percent of the water from the project before the reservoir can be filled.

Groundwater management. This section would impose pumping controls on groundwater in the eastern and southern portions of the San Joaquin Valley. A groundwater management authority would be created with the power to restrict pumping in areas of overdraft or poor water quality. In such areas, no land could be irrigated unless it had been irrigated during the previous three years.

The measure also requires that every public agency in the state implement the policies and provisions to the fullest extent possible. It allows individuals to challenge any action by the state Water Resources Control Board within 60 days after the action is taken. If the measure is approved, it is anticipated that some sections will be challenged in court. These include the New Melones limitations and the impairment of groundwater rights.

Arguments for: The proponents claim that this measure is needed to end wasteful and inefficient use of water. They say it will provide economic incentives for farmers and water agencies to conserve water, that it will establish a fair

pricing system and eliminate subsidies for big users, that it will end overpumping of underground supplies in some parts of the state, and will protect the remaining public rivers, streams and lakes from diversion to private use. The proponents, which include Chairman Scott Franklin of the state Water Commission and former Legislative Analyst A. Alan Post, estimate that the big users get \$60 million in annual subsidies from property taxpayers. They argue that the present water policies result in higher domestic water prices and higher food costs. They add that Proposition 13 will create jobs by insuring that enough water is available for everyone and by encouraging the construction of water-conservation facilities.

Arguments against: The opponents maintain that Proposition 13 is the most ill-conceived, complex, wasteful and economically devastating measure ever presented to the voters. They say it amounts to a radical revision of the water laws and places water rights in the hands of a new state bureaucracy. They predict that water rates and food costs will skyrocket. They say that it makes no sense to restrict filling of the New Melones reservoir because the dam has already been built at a cost of \$360 million. The opponents, which include the state Chamber of Commerce and the State Farm Bureau Federation, claim that the proposition puts the rights of fish ahead of food for people. They warn that passage of the measure will lead to years of costly litigation, reduction in water supplies and dramatically increased costs to farmers that must be passed on to consumers. This plan, they say, has been presented to the Legislature on numerous occasions and has been rejected as unsound and extremist.

REAPPORTIONMENT COMMISSION

14

This initiative constitutional amendment would create a commission to establish congressional and legislative districts.

Background: The state constitution requires the Legislature to reapportion or redistrict Assembly, state Senate, congressional and Board of Equalization districts following each federal census. This process is designed to produce districts that are equal in population and that meet other state and federal criteria. Following the 1980 census, the Democratic-controlled Legislature enacted boundaries for the Assembly, Senate and congressional districts. The Republican Party placed those three plans on the June ballot by referendum, and they were rejected by the voters. Consequently, all three plans must be revised prior to the 1984 state elections.

The proposal: This measure, sponsored by Common Cause and the Republican Party, would take the reapportionment process out of the hands of the Legislature. Instead, it would create a Districting Commission which would attempt to draw lines next year and in future post-census years. Here are the main elements of the redistricting rules under Proposition 14:

- Each Senate district shall consist of two Assembly districts, and each Board of Equalization district shall be composed of 10 Senate districts.
- The commission shall attempt to promote competition for elective office, and districts shall be composed of convenient, contiguous territory.
- State Senate districts shall be numbered so that there shall be no lapse of representation for a district.
- Members of the commission shall be chosen in the year of the decennial census. A chairperson and three other members shall be appointed by December 31st by a panel of seven justices of the appellate court (by two-thirds vote). The jus-

tices will be selected by seniority, but not more than four can have been registered with the same political party at the time of their appointment to the Court of Appeal. The justices shall appoint "practical, knowledgeable, politically independent" men and women who will give the commission geographic, social and ethnic diversity. Three additional members shall be chosen by each major political party. These appointments shall be made by the state chairperson of each party and by the partisan caucuses in the Senate and Assembly. The appointees of the party chairs cannot be legislators.

- Commission meetings shall be open to the public.
- All commission actions must be approved by 7 of the 10 members. The commission shall employ members and consultants.
- Special provisions apply for the 1984 election. Commission appointments will be made by the end of 1982, and plans adopted by the commission shall remain in effect for the remainder of this decade.
- The commission must adopt final plans by October 1st of the year following appointment.
- The seven votes required to adopt a plan must include at least one of the partisan appointees from each party. Any adopted plan shall be subject to the standard referendum procedures.
- If the commission fails to adopt a plan, the Supreme Court shall do so within 60 days. If possible, the court shall use the commission and its staff as special masters.
- Commission members who are not members of the Legislature shall receive legislative salaries for the months the commission is active.

Arguments for: The Republican Party and Common Cause claim that Californians demonstrated their opposition to the present system of apportionment by rejecting the Legislature's plans on the June ballot. Proposition 14, they say, gives the voters a chance to take reapportionment out of the hands of the Legislature and establish a fair election process. They say the commission system will end gerrymandering and halt secret deals favoring one party or the other. They predict that the proposed commission will spend far less time and money drawing new lines than the Legislature has done in the past. The only fair way to draw lines is to take the job away from those who stand to benefit, the proponents maintain, and there is no worse conflict of interest than incumbent politicians drawing their own election districts.

Arguments against: Democratic leaders claim Proposition 14 will not work because it will result in the lines being drawn by the state Supreme Court. Our system of government is based on a separation of powers, and redistricting has historically been a legislative function. They warn that this plan gives the redistricting assignment to a commission with an uncertain expense account and an uncertain responsibility to the public. Because representatives of either party can veto a reapportionment plan, the commission system is bound to produce a deadlock. After the Supreme Court reapportions, there is nothing the public can do about it because there is no way the public can place a court plan on the ballot. The opponents also claim that experiments with commissions in other states have produced illogical districts at a higher cost to the public.

HANDGUN REGISTRATION AND CONTROL

15

This initiative statute requires that all handguns be registered and restricts the importation of handguns into California.

Background: Under current law, all Californians — with the exception of convicted felons, narcotics addicts and mental patients — can purchase handguns and keep them in their homes without permits. Those who sell handguns normally must wait 15 days before delivering the weapons to purchasers. During the 15-day period, law-enforcement officials determine whether the purchaser is prohibited from possessing a gun. Current law also requires that weapons used in the commission of crimes must be surrendered to police. These weapons may be returned to their owners (if stolen), sold at auction, retained for government purposes or destroyed. California has no gun-registration requirement or general prohibition on the purchase or possession of firearms.

The proposal: This initiative statute is sponsored by John R. Phillips and Victor Palmieri of the Center for Law in the Public Interest in Los Angeles. It is aimed exclusively at handguns, not rifles or shotguns. The major provisions:

- Owners of handguns would be required to register them with the state Department of Justice within one year after the November election. A fee would be charged to pay for the cost of the registration procedure. An individual could register only one handgun purchased between January 1st, 1982, and April 30th, 1983. Handguns could not generally be imported into California, and purchase of handguns by mail would be prohibited. Driver's licenses would include statements that it is illegal to import handguns into California.

- Procedures would be established for the transfer of handgun ownership, for the replacement of registered handguns and for the registration of handguns inherited upon the death of the previous owner. Law-enforcement agencies would be required to destroy any surrendered handguns, except those that could be returned to their registered owners (if stolen) and those that are earmarked for use by military and law-enforcement organizations.

- The Legislature would be prohibited from enacting laws controlling the sale and possession of shotguns or rifles. Nor could the Legislature enact laws restricting possession of registered handguns, except with regard to individuals with histories of criminal conduct or mental instability.

- New criminal penalties would be established for violation of handgun laws. Generally, it would be a misdemeanor to possess an unregistered handgun after November 2nd, 1983; to buy, sell or transfer unregistered handguns after April 30th, 1983; to import handguns; to order handguns by mail, or to falsify a handgun registration application.

- Anyone caught with an unregistered handgun on the street would get a mandatory six-month prison sentence. Any criminal engaging in illegal sale of handguns would get a mandatory year in prison. It would be a felony to possess more than five unregistered handguns with the intent to sell them, or to sell five or more handguns in violation of registration laws. An individual who transfers a handgun illegally would be liable for civil damages up to \$25,000 for the death or injury of a person from use of that weapon.

Argument for: Proponents of Proposition 15 claim it is a common-sense proposal that safeguards home guns and attacks street guns. Present laws, they emphasize, make it too easy for criminals to obtain concealable weapons and terrorize the citizenry at will. They stress that it is not a ban on handguns and has no effect whatsoever on rifles and shotguns. They claim that similar laws in other states and nations have been successful. The theme of the proponents is that "enough is enough" — that 2,000 people were killed with handguns in California last year, that there are already 4 to 6 million handguns in the state, and that Californians have had enough of street guns. They feel that this is a reasonable step that will punish criminals who engage in black-market sale of guns and who are caught on the street with unregistered handguns. The ballot-pamphlet argument for the measure is signed by former Sheriff Peter Pitchess of Los Angeles County, Police Chief Cornelius Murphy of San Francisco, and John J. Norton of Foster City, president of the California Police Chiefs Association.

Argument against: The opponents maintain that Proposition 15 will deprive citizens of their most basic right — self protection. They argue that the measure is deceptive and poorly written, that it will require a bureaucracy of 800 public employees to administer the registration program, and that it will divert law-enforcement resources away from fighting crime. They estimate that the measure could cost Californians as much as \$250 million. The opponents stress that the anti-crime feature of the initiative will not work because the gun laws will be ignored by criminals. This measure is a cruel hoax, they say, that will create an elite class of pistol owners and will establish a gun-sale black market that will produce profits for organized crime. Law-abiding citizens, not criminals, will be hurt by this proposition, according to the opponents. The ballot-pamphlet arguments were signed by Supervisor Carol Ruth Silver of San Francisco, Sheriff Richard K. Rainey of Contra Costa County, and Robert L. Fusco, president of the California Wildlife Federation.

Hayden: *I can and will cooperate* Opposition: *I believe he's a socialist*

By BUD LEMBKE

If the political game followed logical rules, Tom Hayden would be a shoo-in for the state Assembly in November. He is the Democratic nominee in one of the most liberal areas of California, the 44th Assembly district in Santa Monica and environs. The district registration is 57 percent Democratic, only 30 percent Republican. His opponent is an outsider with limited political experience who has never run for office before.

But politics is rarely logical — and Hayden is hardly a typical candidate. Now 42, he is best known as the Berkeley radical of the '60s, the husband of actress-activist Jane Fonda and the founder of the Campaign for Economic Democracy. All he needs to do to win is persuade mainstream Democrats that he can swim with them. But that may not be easy.

His opponent is Bill Hawkins, 34, an insurance agent who ran the 1980 campaign for conservative Assemblywoman Marian LaFollette. Hawkins considers himself a moderate Republican, however, and he thinks he can attract a 30 percent crossover of Democrats, partly by reminding them of Hayden's divisive race against U.S. Senator John Tunney in 1976. That bitter primary was considered a major factor in Tunney's loss to Republican S. I. Hayakawa that fall.

Other observers aren't so sure that a political unknown can play David to Hayden's Goliath on Hayden's home turf, even with gobs of GOP money. "There will be an unconscionable amount of money spent on that race," says Bill Roberts, a veteran manager of Republican campaigns who is guiding George Deukmejian's race for governor. "The GOP will go all out on this because Republicans don't want Hayden around. He stands for things

that are anathema to a majority of Californians."

Tom Ellick, the governmental relations vice president of The Fluor Corporation, says Hawkins has a chance if people don't forget that "Hayden has put on a coat and tie, but he's still the same Tom Hayden."

Hayden will have plenty of resources, too. His CED organization is



HAYDEN

thriving and his wife is a stellar fund raiser. Hayden raised \$450,000 for last spring's primary, and his goal for fall is to raise about \$500,000. Hawkins' target is more than \$300,000, much of it by various efforts on the national level, including one by Richard Viguerie, a New Right computer-mail wizard based in Virginia.

"This will be one of the most expensive campaigns for legislative office in the country this year," says a behind-the-scenes Republican source. "There's almost a religious fervor that runs through this. Republicans feel they must prevent the devil from prevailing. I think Hawkins will have all the money he needs."

The ballot will also list Libertarian Party candidate Ed Wolford and Peace

and Freedom Party candidate Jack Hampton.

On the defensive

Hayden's campaign manager, Michael Dieden, 33, thinks the Republicans will use Hayden to raise money, "and if they don't think Hawkins can defeat him — which I think the conclusion will be — they will use the money elsewhere," says Dieden.

Hayden's strategy will be to put Hawkins on the defensive. "Hawkins has to defend the Republican budget, interest rates and inflation," Dieden says. "What's his position on rent control and the Social Security and MediCal cuts? He has to get all the Republicans, a majority of the decline-to-state voters and 30 percent of the Democrats. I think that's numerically impossible."

Hayden's brochures depict him fishing from a small boat, coloring Easter eggs with the Fonda family and taking a whack at a softball — all symbols of the "regular guy" image Dieden is promoting. "In the primary Tom was viewed by the media as a bugaboo — a very controversial politician," says his campaign manager. "We tried to portray him as a normal human being. He plays softball, goes fishing and his kids go to school here. He doesn't have horns and he's not out of sync with the (Los Angeles) West Side. We don't believe in dirty campaigns. We run on issues."

After the tightly contested primary against Steve Saltzman, an aide to Mayor Tom Bradley, Hayden literally did not break stride. He continued to walk precincts two hours a day, and his headquarters was alive with activity all summer. He also tended to some fence-mending with the Jewish community, which forms about 30 percent of the district's registration. Last year, before smoothing things over with Hayden and withdrawing from a primary battle with him, Carey Peck (son of actor Gregory Peck) had charged Hayden with being an apologist for Palestine Liberation Organiza-

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tion terrorism in the Middle East. Hayden said he was "outraged by Carey's false charge," adding: "Jane Fonda and I consider ourselves steadfast and effective friends of the State of Israel and the Jewish community." Peck later gave his stamp of approval to Hayden's loyalty to the Israeli cause, but a seed of doubt had been planted.

Thus Hayden and Fonda accepted with pleasure an invitation by the Israeli Soldiers Welfare Association to visit wounded in the war-torn Middle East in early July. They made a five-day tour of Israel and the Israeli-held Lebanese territory all the way north

to the outskirts of Beirut. Hayden's press secretary, Ralph Brave, who is Jewish, and Phil Blazer, editor and publisher of *Israel Today*, a bi-weekly newsmagazine based in the San Fernando Valley, traveled with them.

People working on Hawkins' campaign concede that Hayden spent his time well in traveling to Israel. Hawkins has been careful not to criticize his opponent for making the trip. His campaign manager, Ron Smith, says he considered it a shrewd maneuver "for trying to counter earlier statements for the PLO." He suggests, however, that the Jewish community might regard it as "an attempt to manipulate them."

Allan Hoffenblum — whose partner, Stu Mollrich, is handling Hawkins' direct-mail campaign — agrees that the trip was effective. "I'm Jewish and I think it was helpful for him," Hoffenblum says. "I've been kidding that Hawkins (who, like Hayden, is non-Jewish) is going to top it by going to West Beirut."

Tapes and rent control

Hawkins says he believes in "a reasonable approach to solve problems, as opposed to the radicalism of Tom Hayden." He is clearly not enthusiastic about rent control, stating that "it's a political reality" locally but that he would oppose a statewide rent-control law. (The CED led the campaign for rent control in Santa Monica.)

Hawkins grew up in Berkeley and Lafayette, was graduated from Sacramento State University with a major in communications and operated an insurance agency in the San Fernando Valley's Woodland Hills. He was active in the California College Republicans while in school and served a summer internship with the State Republican Central Committee. He refuses to say whom he supported for president in 1980 but says he is "moderate on social issues and conservative on fiscal matters."

Hawkins opposes new taxes to meet the state government's prospective 1983 fiscal crisis, contending that "greater efficiency and greater economic progression" can balance the budget. (Hayden maintains that new taxes will be required; he favors an oil severance tax and a "slight increase" in the alcohol and tobacco taxes.)

Until he moved to a Santa Monica apartment last December, when he and his wife separated, Hawkins lived in Thousand Oaks. That community is not only outside the district in which he is running, but is in a neighboring county, Ventura. Hayden and his staff pass up no opportunity to mention that Hawkins is an outsider. "I think it's very important for voters to know that he's never lived here and never worked here; never raised a family and sent the kids to school here and that he was imported into the district for the express purpose of serving the right-wing Republican Party's agenda," Hayden says.

Hawkins' campaign manager, Ron Smith, 39, claims that post-primary polls conducted for his candidate show that Hawkins has a better chance of winning than any of the other non-incumbent Republican candidates for the Legislature in the state. He insists that the Hawkins campaign will not take the low road. "I think extremist attacks on Tom Hayden would hurt us," he says. "The average voter wouldn't believe what I believe to be Tom Hayden's goals. I believe he's a socialist."

A fund-raising letter being sent out by a Hawkins committee, "Stop Hayden/Fonda Now," is signed by Assemblywoman LaFollette. Its headings include: "The Tom Hayden Story — Anatomy of a Radical." Initially, the mailing was sent to 150,000 California households. "We think we can finance the campaign with small contributions by direct mail," says Hoffenblum. "If it works in California, then we'll go nationwide."

Hayden press secretary Brave says that a group called Voters for Common Sense, operating separately from Hawkins but on his behalf in the primary, ran a "hit campaign." He expects more of the same from that group in the general election, leaving Hawkins free to stay on the high road.

Avoiding disruption

The Hayden campaign will hold a major fund-raising dinner September 29th at the Century Plaza Hotel. A "national speaker" is being sought, to be supplemented by Hollywood luminaries and by the honorary Hayden co-chairmen, U.S. Senator Alan Cranston and former Governor

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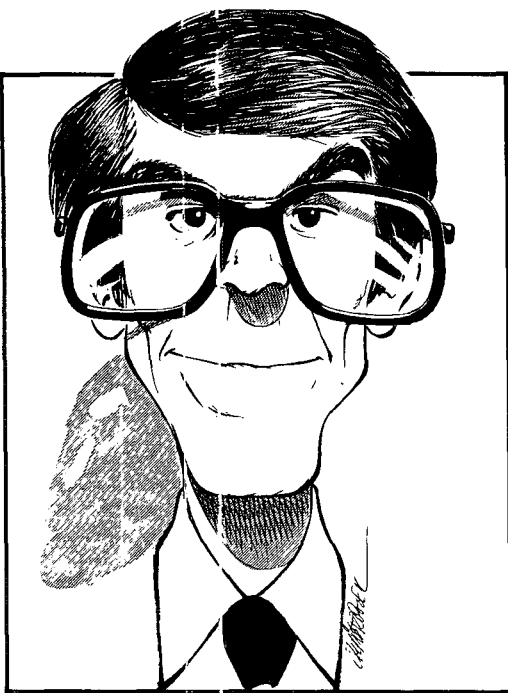
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HAWKINS

Pat Brown.

"Tom definitely has a national base which he could draw upon with direct mail, but we haven't decided how much to rely on that," says Brave.

Why is Hayden running for the Assembly instead of Congress? "Tom didn't want to go to Washington," says Dieden. "His base is here (in Santa Monica), his family is here and he has to remain here because Jane's work is here. He didn't want to challenge a formidable Democrat like Leo McCarthy (now running for lieutenant governor). That would have been disruptive. That's not the role he wanted to play."

So it boiled down to a race for Assembly, in a basically white, middle-class district. It stretches along the coast from Malibu and Pacific Palisades to Venice. Inland, it reaches to Fairfax Avenue in Los Angeles but skirts Beverly Hills. It is CED country, but also a stronghold of traditional, Humphrey-style Democrats.

Help from the CED

"This is going to be a very close race, a race targeted by the Republicans," predicts Bruce Corwin, a prominent West Los Angeles Democrat who backed Alan Katz in the 44th Democratic primary until Katz withdrew. "The fact that the Democratic primary was close indicates a substantial anti-Hayden vote out there. I hope Democrats realized this is an important seat. I have disagreed with Hayden in the past but on key issues, Hayden will vote the Democratic position. I'm supporting him."

Dieden speaks proudly of the CED growth. The organization now claims a statewide membership of 12,000, an increase of 2,000 in recent months. "Reagan has helped the CED," Dieden says.

He estimates that 75 local officials have been elected with CED backing in California. Some of its successes in the June primary included the re-election of Butte County Supervisor Jane Dolan and Peter McNamee as Yolo County clerk. Dolan won four years ago by a tiny margin, but by 2 to 1 this time — in spite of charges that she would bring "socialism from Santa Monica." In Santa Monica, five of the seven City Council members belong to the CED, which is headquartered in second-floor offices of a Santa Monica Boulevard office building.

Will the old battle cry, "Fonda and Hayden are coming," work for a Republican in a liberal district? "Hayden is carrying a lot of baggage from being involved in a lot of radical politics," says Hoffenblum.

Hayden concedes that he is the main issue in the campaign. "From the Republican standpoint, they have to attack my background as a radical in the 1960s because they don't have any real issues. I think that the past is always a valid subject, but the voters believe that the '80s are the issue."

Where should the Democrats be leading in the '80s? "They should be talking about the role that social programs can play in making people independent," Hayden says. "The Democrats have been stuck in the rhetoric of social programs and funding that maintain people in their state of dependency. And Republicans have been talking of cutting that off. But those aren't the only two choices. The third choice is investments that create more independence."

What are the CED's real goals? "The way I think of it philosophically is more citizen participation in economic decisions," says Hayden. "I am sure that it

steps on the toes of some large corporations, particularly utilities, but it's nothing new in American society for citizens to want more of a voice. I happen to think that business would run better, the free enterprise system would be healthier if people had more of a voice and were treated less as cogs and objects. You get greater productivity when workers feel involved, and you get fewer environmental lawsuits when communities have been consulted."

Target for taunts

Hayden displays some annoyance when asked if he has changed from the young man who helped organize the Red Family commune in Berkeley in 1969. "Whether I've changed is a fairly obvious and somewhat boring fact," he insists. "I've been working within the electoral system for the past 12 years, in one fashion or another, and have run for public office and represented an organization that has lots of active participants in the Democratic Party. I've headed up or been a member of a number of government commissions, federal and state. I think that case is settled."

Some prominent Democrats cringe at becoming the ready-made Republican target for taunts of being "the party of Tom Hayden" if Hayden is elected. And some are uneasy about whether he could be a "team player" in Sacramento. "I can and I will cooperate," Hayden promises.

Richard O'Neill, a former Democratic state chairman, thinks Hayden would play ball. "His election would give him a forum. If he wants influence, he's got to play the game up there. He'll probably introduce some far-out bills, but he's smart enough to know they're not going anywhere."

Discussing team play in Sacramento, Hayden grins and observes, "After all, the Democratic Party is not exactly a place of tranquility and unity that I am about to shatter."

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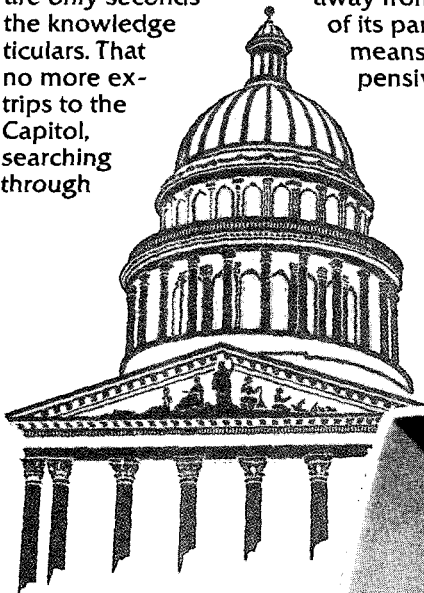
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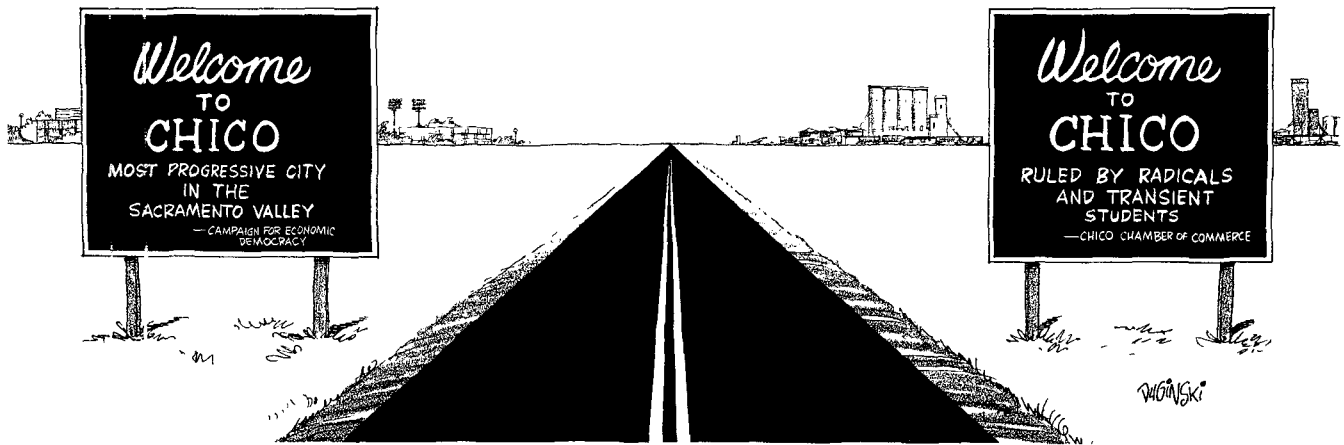


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The liberal takeover of conservative Chico



By MICHAEL J. FITZGERALD

Chico is a pleasant, sleepy campus town of 26,000 permanent residents, about 90 miles up the freeway from Sacramento. For years Chico's city government has been dominated by agricultural and small-business interests. They enjoyed the economic infusion that came with the town's growing state university, but they ran the hometown show.

Suddenly Chico's political leadership has shifted sharply to the left — amid much viewing-with-alarm by business and real-estate interests and by the town's only daily newspaper. The practical results of that shift have been less dramatic than expected, however — at least so far. And the reasons for the change are by no means clear.

It all began last year, when four candidates backed by the Campaign for Economic Democracy (CED) won seats on the city council. They joined one liberal incumbent to form a solid majority on the seven-member board.

Fearing the influence of the Tom Hayden-Jane Fonda organization, the conservative *Chico Enterprise-Record* gloomily predicted after the election that the city would become "a laboratory for socialistic CED ideas and experiments." But so far the new

council has produced no radical change. It has set up a city bus system (a project actually initiated by previous city councils) and has passed some restrictions on apartment-to-condominium conversions. Otherwise, the liberal "Gang of Five" has followed city staff recommendations on most issues. They recently approved a major oversizing of a sewer line in northeast Chico to allow for plenty of future development.

"For lack of a better word, certainly, the council is 'liberal,' I'd say," Mayor Mardi Worley says. "But socialistic? I really don't know about that." Yet the mayor is a member of the "liberal" majority. Her view is vigorously disputed by local business leaders who backed an unsuccessful drive in June which could have unseated the entire council. The June ballot measure called for the division of Chico into seven council districts; council members are now elected at large. Approval would have forced the entire council to stand for election in November. It was soundly defeated, however, with nearly 70 percent of the voters turning thumbs down on the measure.

The proposal was backed by developer and City Councilman Dan Hays, who was also an unsuccessful June candidate for Butte County supervisor. The liberal majority of the council called the districting measure a political ploy and worse. "It's really just a thinly veiled recall attempt," claimed Councilman Karl Ory, a CED member.

The districting plan would have

brought the newly seated council members back before the electorate after only 18-month terms. The plan's critics claim that another goal was to diffuse the impact of student voters in city elections. Of Chico State's 14,000 students, 7,000 live within the city limits and constitute a potential political powerhouse.

'Riling up' the students

"It seriously bothers me that a transient vote can fiscally affect the city," Councilman Hays says. "It's easy to get students riled up — and down to the ballot box." Hays admits he would like to see Chico as it was in the 1950s, and his idea to cut the city into voting districts was to foster a more "neighborly" approach to politics. It also would have isolated students into certain neighborhoods, lessening their total impact at the polls.

The role of university students in city politics may be more apparent than real, however. From a small college of fewer than 5,000 students in the early '60s, the school population mushroomed to 14,000 in the '70s. With that growth came some campus radicalism which offended and frightened some permanent residents. But that element has largely vanished, replaced by career-oriented, post-Vietnam students who tend to be apolitical. The longest lines on campus now are students waiting to see recruiters for business firms. The last major campus activity was a petition drive protesting hikes in state college fees.

Michael J. Fitzgerald is a free-lance writer in Chico and a former newspaper editor.

"When we examine the numerical impact (of students voting in Chico), it's far less than anyone had reason to believe," says Chico State Professor James Gregg. "It's really a sleeping giant, politically. Some of the people in the community who are constantly baiting the students should think about that."

Gregg says that statistics show the four liberal candidates owe their election last year to voters from all over the city, not just to areas where student residences are concentrated. "If we have a turnout of 25 percent in a student precinct, that's significant," Gregg maintains. "And only 30 percent of all the students here are registered voters."

Rather than resulting from student votes, the rise of liberal politics in Chico may be more reasonably attributed to a growing awareness of environmental issues, even among those who label themselves strict conservatives. "We have a younger, liberal group of entrepreneurs helping run the city," Mayor Worley says, "but you need support from all over the city to get elected." In her campaign in 1981, Worley was backed by the CED, but she is not a member and is striving for a "moderate" image. (In the primary election, Worley challenged incumbent Butte County Supervisor Hilda Wheeler and two other candidates for Wheeler's supervisorial post. Worley will face Wheeler in a November runoff, but she has disavowed any connection with the local CED.)

Among the younger, liberal element helping to run things:

- **Supervisor Jane Dolan.** First elected in 1978, Dolan has since earned a reputation as a "no-growth" advocate. A former student activist and Chico city planning commissioner, she fought a no-holds barred campaign for her re-election against Chico Councilman Hays. "When I was first elected, people actually thought I was going to burn down the county ad-

ministration building," she says. Dolan does have close ties with the CED in Butte County, making her another target along with the five council members.

- **Bob Mulholland,** a Chico State student in the early 1970s, now an organizer and lobbyist for CED. A fixture at any liberal function in the city, Mulholland claims the attention focused on the liberal-conservative axis in Chico is misplaced. "The real issue is planned growth versus no growth controls at all. The voters here know what the issues are; they don't want the orchards developed and they don't want urban sprawl."

A liberal bastion?

The impact of the CED in Butte County has prompted headlines throughout the state, suggesting that Chico is joining Santa Monica, Santa Cruz and Santa Barbara as liberal bastions. This spring, in a highly publicized visit to Chico, Jane Fonda presided over the premiere of *On Golden Pond* as part of a CED fundraiser. Earlier the same day, she was the guest of honor at a \$50-a-plate dinner attended by about 40 of the CED faithful. But the CED's main impact so far has been organizational, not ideological. With 30 activists, about 140 members and a mailing list of 500 to 1,000, CED has an apparatus in place for political action.

"I'll tell you how far out we are," Mulholland says sarcastically. "We've been criticized for going out and knocking on doors, asking for voters to support our candidates. Now that's radical!"

If there is one issue that does unite Chico State students, it is probably land use. A countywide measure aimed at preserving farmland was defeated in 1980, but inside city limits it passed by a 60-40 margin. Student voters are credited in part with that showing in the city. In the fall of 1981, a measure that would have allowed construction

of a condominium project in a picturesque canyon east of Chico was resoundingly defeated. "It may take those kind of environmental questions to stir the students," says Professor Gregg.

If the shift in politics from conservative to liberal has been traumatic for some portions of the community, it has been devastating for the city's only daily, the *Enterprise-Record*. Through the '60s and early '70s, the newspaper's influence was unquestioned. "It used to be said you couldn't win an election without an *E-R* (*Enterprise Record*) endorsement," Mayor Worley says. "It was supposed to be worth 1,500 votes."

That bit of folk wisdom began to fray as early as 1973, when a liberal group called the April Committee elected two of four candidates to the city council. Then Worley won election in 1977 without an endorsement from the *Enterprise-Record*. In the June supervisorial election, she pulled 39 percent of the vote, compared to 42 percent for incumbent Wheeler. (Both Wheeler and Chico Councilman Hays were endorsed by the daily newspaper during the week before the balloting.) In 1981, all four city council candidates backed by the newspaper were defeated.

As much as the political shift has caused discomfort in the editorial offices of the *Enterprise-Record*, it has been celebrated at the *Chico News & Review*, a weekly newspaper. Once the campus paper of Chico State University, it moved off-campus in the mid-'70s and has since become commercially successful. Catering to the changing younger population of Chico as well as to students, the *News & Review* provides a liberal alternative. Its endorsements, not surprisingly, have differed sharply from the *Enterprise-Record's* conservative positions.

After the 1981 election and defeat of the district plan in June, many local political watchers are scratching their heads in confusion. "It is now apparent that, if liberal voters in the community and the students at Chico State University are in agreement on candidates and ballot measures, the local Chico papers' editorial endorsements will not prevail," Gregg has written.

What's also apparent is that Chico voters may have learned to look beyond labels and to focus on issues. Clearly growth and land-use questions are attracting a coalition of voters that ranges across the political spectrum. And this coalition does not necessarily depend on Chico State students for its strength. The 70 percent rejection of the districting plan last June occurred two weeks after most students left campus for their summer vacations. 🏠

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Why Pat Brown's pension is higher than Jerry's salary



By JACKSON RANNELLS

Imagine legislators voting themselves lifetime pensions of \$1,000 a week. Or \$10,000 a week, for that matter.

The courts wouldn't permit it!

Don't be too sure.

The California Supreme Court seemed to sanction this sort of beneficence in a ruling — *Betts v. Board of Administration* — four years ago.

The *Betts* rule amounts to this: Constitutional contractual rights protect any lifetime benefits that the lawmakers adopt for themselves and for others whom they have inducted into the Legislators' Retirement System.

The *Betts* decision upheld a unique, Super Escalator pension formula which has given a handful of former statewide officials retirement allowances exceeding the salaries of their current counterparts in office. Some of these pensions could ultimately soar to double or triple the incumbent officials' pay. Quite predictably, a pack of former legislators and elected officials are now in court with claims to the same sweet deal.

The little-known results of *Betts* are of more than casual interest to California taxpayers, since, over the past 35 years, they have paid \$15 into the Legislators' Retirement System for every \$1 put in by the plan's members — \$41.7 million compared to \$2.7 million. The ratio was \$5.60 for every \$1 in 1963, when Super Escalator was invented. It had risen as high as \$9 to \$1 before the Legislature, in 1977, appropriated \$29.1 million to put the system on a funded, instead of a pay-as-you-go, basis. By 1980, however, analysts said the system had fallen \$18 million behind, due to the unlimited price-index-based escalator in effect on all benefits, and the double escalation in effect for the few.

Jackson Rannells is a reporter for the San Francisco Chronicle.

Trustees of the retirement system urged the Legislature to appropriate the \$18 million, to increase the state's contribution rate from 18.8 to 25 percent of payroll, and to consider placing a limit on the cost-of-living adjustments. No action has been taken.

How have individual retired officials benefited from the controversial decision? Some examples:

- **Bert Betts'** pension for serving eight years as state treasurer (1959-66) has more than tripled since his legal victory. He now draws \$52,910 a year.

- U.S. Senator **Alan Cranston**, who served as state controller during the same eight years that Betts held office, now gets a \$52,500-a-year state pension. This is in addition to his \$60,660 federal salary.

- **Max Rafferty** — until his death by drowning this spring — received a \$51,800 annual pension for serving eight years as superintendent of public instruction (1963-70).

The current holders of those three posts — Jesse Unruh, Ken Cory and Wilson Riles — are paid only \$42,500 a year. That is before deductions for Social Security and retirement-plan contributions. The pensions have no such deductions.

- State Supreme Court Justice **Stanley Mosk** gets a \$47,340 pension for less than six years' service as attorney general (1959-64), a job that pays incumbent George Deukmejian \$47,500. The pension is in addition to Mosk's \$77,225 salary on the high court.

- Former Governor **Pat Brown** gets a pension of \$56,880, while son Jerry's salary is \$49,100.

- The highest-paid pensioner in the Legislators' Retirement System is a man who has never held public office: former Senate staff member **Clarence Alexander**, whose annual pension is \$63,840.

All of those amounts are mere pittance compared to what benefits may lie on the horizon. Even more rapid compounding of pensions could occur in the future. This is illus-

trated by the case of former Attorney General Evelle Younger. When Younger left his \$42,500 job a little more than three years ago, he filed for a \$47,576-a-year pension. The figure was based on the new, \$47,500 salary for attorney general, plus a "1954 catchup" escalator based on the Consumer Price Index (CPI). This year, Younger's claim is up to \$67,030, boosted by increases in the CPI. It would exceed \$110,000 in 1983 if the Legislature follows through on plans to hike the salary for the job of attorney general to \$75,000. While such a raise may be unlikely in view of the state budget crisis, it illustrates the explosive dynamics of the Super Escalator.

Discussion of Younger's pension is timely because the retirement system has denied his claims and is paying him only \$25,380 this year to provoke a legal test. The goal is to give the Supreme Court an opportunity to re-think the *Betts* ruling, in light of its distorted, extravagant effects.

What the court sanctified in *Betts* was the simultaneous operation of two cost-of-living escalators. One of the escalators is based on gains in the CPI since 1954. It boosts benefits annually. The other escalator is based on the raises in salaries of current officeholders. This one pays off annually for retirees from some offices and less often for others.

Understanding the pension system is difficult because there are eight different benefit formulas. Three of them include double escalators, and one of the pending lawsuits would create a fourth. The variety of formulas evolved over the years as lawmakers shifted back and forth between benefit binges and mini-reforms. Even the least generous of the eight formulas ranks with the highest-paying pension plans in public employment, however.

Born in controversy

The Legislators' Retirement System was born in controversy in 1948. It was the product of another state Supreme Court decision. The Legislature had voted itself a pension plan — with details left blank — in 1947, over the objections of then-Attorney General Fred Howser. It was Howser's opinion that the plan conflicted with a 1944 constitutional amendment that barred legislators from setting their own pay. If lawmakers had no legal right to set their own pay, Howser told the Supreme Court, they certainly had no right to set up their own pensions, which are simply deferred pay.

But the court ruled in favor of the legislators. The unanimous opinion was written by Justice Jesse W. Carter — a former state senator whose son, Oliver, was a member of the Senate at the time. Justice Carter said that (despite ballot arguments to the contrary) a 1930 constitutional amendment authorizing a retirement system for state "employees" intended to include elected officials, too. The 1944 restrictions didn't explicitly take away this unexploited benefit, he said.

The legislators wasted little time playing with their new toy. First, they brought the major statewide officers into their system. This meant that the governor, attorney general and controller were now co-beneficiaries, not independent watchdogs of the pension system. Then they borrowed the best features of several existing pension plans and invented others, including:

- **Basic formula** — Legislators adopted a 5 percent multiplier for setting the base pension — triple the rate in effect for the state Public Employees' Retirement System at that time and more than double the current PERS rate. It is also double the current 2.5 percent multiplier in the federal employees' pension plan which covers Congress. They also linked the base pension to incumbents' pay. This provided the first automatic cost-of-living escalation.

- **Minimum service** — No minimum was set initially

but minimums were set later — first at six years, then at four. However, two assemblymen from the early '50s, Republican Charles Gubser of Gilroy and Democrat Howard Parker of San Joaquin County, are drawing \$176-a-month pensions for only two years of legislative service.

- **Early out** — Lawmakers set eligibility for an immediate partial pension, regardless of age, on completion of 15 years — or a full pension for 20 years of service. Based on the 15-year provision, Jesse Unruh drew a pension from his retirement from the Assembly in 1970 (at age 48) until his election as treasurer in 1974. Former Democratic Assemblyman Charles Meyers of San Francisco, although only 60 now, has been drawing a pension for 14 years, ever since he surrendered his seat under charges of alleged misuse of public funds. Meyers' pension is \$31,750 a year — 13 percent higher than the salary of incumbent Assembly members.

- **Disability** — Beneficiaries get immediate full pensions if they are disabled before age 60, whether or not they were in office when disabled. *Betts*' pension started at age 52 due to injuries suffered in an auto accident a decade after he was defeated for re-election in 1966. Former Assemblyman John Quimby got a full pension for disabling alcoholism at age 40 after his defeat for re-election in 1974. He is still entitled to the pension (\$19,550 this year), despite apparent rehabilitation and a successful career as a capital lobbyist.

- **Phantom years** — Lawmakers also can collect benefits based on more years than they actually served. Former Democratic Senator Alvin Weingand of Santa Barbara gets an \$8,470-a-year pension based on eight years of service, even though he served less than five. Appointed in mid-term in 1962, Weingand could claim one year that had been served by his predecessor. He also got two years' credit when reapportionment eliminated his district. Former Democratic Assemblywoman Pauline Davis' \$27,620 pension includes a partial bonus for five years served by her husband, Lester, before his death in office in 1952.

Legislators did at first set upper limits for the pensions — 75 percent of incumbents' pay for legislators and 40 percent for the governor and other statewide officers. The different limits balanced off the fact that the legislators had considerably lower pay.

That's the way things stood until 1961, when the legislators began the process of escalation. The voters had given them two raises from the 1947 pay of \$1,200 a year. But their pay had been frozen at \$6,000 a year since 1954 — a date to remember. This also froze pensions for retired legislators, because their pensions were based on incumbents' pay. (The governor and other statewide officers, not needing voter approval, had gotten regular raises; so had pensioners in those categories.)

So in 1961, with Pat Brown's signature, the legislators made bold new moves to fatten pensions, if not pay. They abolished the 75 percent limit and set up a new formula that gave pensioners 100 percent of incumbents' pay after 28 years of service, with an added 2 percent a year beyond that. They also lowered from 63 to 60 the age for full retirement allowances, and they provided an automatic 50 percent continuation of benefits for surviving spouses. Except for the age limits, these changes were limited to legislators.

That was just for starters. In 1963, they changed the legislators' formula again so that they would get 100 percent of incumbents' pay with 24 years of service, with 3 percent extra for each additional year.

And then they invented the Super Escalator. Packaged as AB 577, it took the basic pension allowance and boosted it annually by the increase in the price index since 1954. That was a 14 percent bonus in 1963. It is a 252 percent bonus in 1982.

This change affected those already on pensions as well as those retiring in the future, and it covered the statewide

Super Escalator and Friends

In the complex world of the Legislators' Retirement System, everyone does well and some do even better. At left, formula benefits are compared using uniform, hypothetical facts: retirement in 1976, eight years of service, a salary of \$24,200 in 1976 and \$32,210 in 1982 and a 73.5 percent increase in the Consumer Price Index from 1976 to 1982.

LRS-1, the Super Escalator formula, gets a 103.3

percent starting bonus for CPI increases from 1954 to 1976. LRS-1, 2 and 5 grow 131 percent by 1982 through the compounding of CPI and salary-based escalators.

At right are current pension benefits or benefits due persons still in office. Numbers in parentheses show what retirement allowances would be if the Super Escalator benefits — now sought in two pending lawsuits — are granted by the courts.

Pension formula	Benefits, 1976	Benefits, 1982	6-year % increase	Examples
LRS-1	\$19,680	\$45,455	131%	James H. Quinn, Board of Equalization, \$57,130; Pat Brown, governor, \$56,880; Harold J. Powers, lieutenant governor, \$53,900; Bert Betts, treasurer, \$52,910; Alan Cranston, controller, \$52,500; Thomas Kuchel, controller, \$49,320; Stanley Mosk, attorney general, \$47,340; Glenn Anderson, lieutenant governor, \$41,160; Aileen Leake (widow of Paul), Board of Equalization, \$36,230; Thomas Lynch, attorney general, \$34,540; Alberta Jordan (widow of Frank), secretary of state, \$30,250; Mary Bonelli (widow of William), Board of Equalization, \$29,070; Virginia Knight (widow of Goodwin), governor, \$24,520.
LRS-2	9,680	22,354	131%	Ronald Reagan, governor, \$24,980 (\$46,000); Houston Flournoy, controller, \$17,000 (\$59,970); Ed Reinecke, lieutenant governor, \$12,110 (\$42,720).
LRS-3	8,840	18,117	104.9%	Evelle Younger, attorney general, \$25,380 (\$67,030); George Reilly, Board of Equalization, pension not set, (\$107,630); Richard Nevins, Board of Equalization, pension not set, (\$107,630).
LRS-4	8,000	13,880	73.5%	Mervyn Dymally, lieutenant governor, \$16,580; Jerry Brown, governor, \$19,640 (\$69,290); William Bennett, Board of Equalization, \$17,370 (\$71,750); Jesse Unruh, treasurer, \$25,500; Wilson Riles, superintendent of public instruction, \$17,000 (\$59,970); March Fong Eu, secretary of state, \$17,000; Ken Cory, controller, \$17,000.
LRS-5 (Staff)	5,808	13,412	131%	Clarence Alexander, Senate, \$63,840; Tony Beard, Assembly, \$41,450.
LRS-6 (Legislators)	6,350	11,017	73.5%	Lester McMillan, Assembly, \$32,460; Charles Conrad, Assembly, \$32,230; Edward Elliott, Assembly, \$31,990; Charles Meyers, Assembly, \$31,750; Stephen Teale, Senate, \$31,630; Hugh Burns, Senate, \$30,280; Richard Dolwig, Senate, \$29,200; Randolph Collier, Senate, \$28,250; Pauline Davis, Assembly, \$27,620; Clark Bradley, Senate, \$27,620; Donald Grunsky, Senate, \$27,620; Alan Short, Senate, \$27,430; Dorothy Miller (widow of George), Senate, \$25,240; Elizabeth McCarthy (widow of John), Senate, \$24,200.
LRS-7	4,880	8,467	73.5%	Augustus Hawkins, Assembly, \$24,140; Arthur Breed, Senate, \$21,600; Vernon Kilpatrick, Assembly, \$21,600; Lloyd Lowrey, Assembly, \$20,333; Don Allen Sr., Assembly, \$19,680 (\$92,100).
For comparison:				
PERS	3,200	3,603	12.6%	(Public Employees Retirement System — civil servants)
Congress	3,200	5,552	73.5%	

officers as well as legislators. Former Assemblyman Edward Elliott, the author of AB 577, reports that the original intent was to include only legislators, but once someone noted the statewide officers would be covered they were left in to avoid rocking the boat.

In the ways of those times, Super Escalator was packaged in closed-door hearings and approved with a horde of other bills, without debate, during the whirlwind closing days of the 1963 legislative session. Pat Brown signed it, after clearances from Mosk's and Cranston's offices and des-

pite opposition from the retirement system bureaucracy.

The press was unaware of the changes until weeks after they became law; even then reporters failed to grasp the long-range impact of the measure. Probably the legislators and Pat Brown didn't either.

But two things should have been obvious: First, with incumbents' pay a constant in the formula and the pensions increasing with the CPI escalator, pensions inevitably would catch up with and then exceed incumbents' pay. (Eventually, survivors' pension allowances would exceed the incumbent's pay, too.) Second, eventually someone not even born in 1954 would get a pension adjusted for inflation since 1954. Jerry Brown comes closest to this category. Under the *Betts* doctrine, Brown would get the "1954 catchup" when he reaches age 60 in 1998, or sooner should he suffer a disability. His starting pension probably would be three times the pay for the incumbent governor, and continue to grow beyond it.

The legislators chose not to increase their relatively low 4 percent pension contribution rate to help cover the predictable added costs of Super Escalator. A furor did arise eventually. When then-Assemblyman Jesse Unruh and other legislators were packaging a constitutional amendment changing their jobs from so-called "part-time" to "full-time" status, they surrendered their right to Super Escalator in return for the right to set their own pay within

specific limits (10 percent every two years). Voters bought the package.

But differing formulas still apply to different officials. Legislators who retired before 1967 continued to get the "1954 catchup," but limited to a \$6,000 pay figure rather than incumbents' pay. (This is LRS-7.) Another complicated formula was set up for those who continued or started legislative service after 1966 (LRS-6). It is relatively lucrative but limited to escalation based on increases in the price index *after* the pension begins.

A Los Angeles Superior Court judge, relying on *Betts*, recently upheld the right of legislators who served in 1964, 1965 or 1966 to receive the full Super Escalator. This decision could boost some 1982 pensions to the \$90,000 range.

Either through oversight or political imperatives, the Legislature in 1966 let Super Escalator continue for the statewide officers — most of whom, coincidentally, were ousted from office that year in the Reagan slate sweep.

Ironically, the *Betts* case grew out of the Democratic Legislature's attempts to deny Governor Reagan the benefits of Super Escalator when he left office eight years later. They already had cut off Super Escalator for statewide officers first elected after 1972, substituting a new formula (LRS-4), based on final pay in office and use of the price index escalator after benefits begin.

To sting Reagan, they passed laws changing the formula

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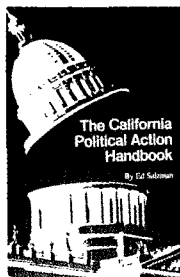
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to use final pay for any statewide officer not drawing benefits by October 1974, and to use "1954 catchup" only for those first elected to office before 1966. The independently wealthy Reagan signed the laws, and neither he nor the other two officials first affected by it — Cranston and Rafferty — protested. But Betts did.

Betts was given the "1954 catchup," but his basic pension was based on his final pay (\$21,500) rather than incumbent's pay (\$35,000). He claimed a constitutionally protected contractual right to the full Super Escalator because it had been the law when he served. He also claimed it had been in effect his whole final term, an error that was not detected by the courts and has clouded the Supreme Court's ruling.

The state Court of Appeal ruled that there was no legitimate reason for a pension to have compounding cost-of-living escalators, and that Betts' constitutional claim was overruled by a long-standing limitation known as "reasonable expectation."

But the Supreme Court disagreed and ruled for Betts. While admitting its uneasiness with the "troubling results" of double escalation, the high court said pensions are contractual rights that can be changed only by the granting of some other benefit of equal value.

Betts would be getting a \$26,760 pension instead of \$52,900 if the Supreme Court had upheld the 1974 law. He would be getting \$12,410 if the court had taken a deeper look at the Super Escalator and nullified the "1954 catchup" too.

There are a number of issues raised by the *Betts* decision beyond the benefits involved and the court's elimination of the historical "reasonable expectations" concept:

- It dealt with Super Escalator as a fringe benefit negotiated between labor and management, when in reality it was a plum created by its own benefactors.

- It accepted the contention that Betts served his full final term with Super Escalator as a benefit when, in fact, it was adopted six months into his final term.

- It endowed the 1963 incumbent statewide officers with a contractual right to Super Escalator, even though the state constitution bars voting increases or decreases in pay that would take effect during that term of office. Should that restriction cover votes of deferred pay (lifetime pensions) too?

Awesome stakes

Betts spawned two lawsuits by others trying to re-establish their rights to Super Escalator — one by former Attorney General Evelle Younger and the other by 30 former legislators who left office between 1964 and 1966. The legislators have won the first round, and an appellate court hearing is scheduled in Los Angeles on September 15th.

The stakes in this case are awesome because of the numbers involved. If the 30 have a vested right to Super Escalator, so, presumably, do the 50 other 1966-era legislators who continued in office. There is no way that the LRS-6 formula, although lucrative, is of "equal value" to Super Escalator — the test that would allow contractual rights to be changed.

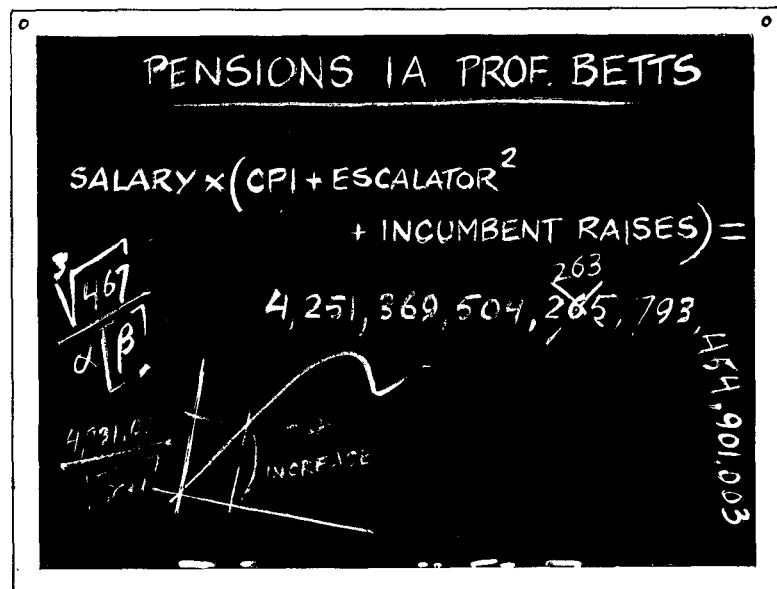
A victory for the former legislators would almost quintuple their pensions. That's because the ratio between the \$6,000 salary base currently used and the 1982 legislative salary of \$28,111 is 4.685. This would grow in the future, of course.

The lead plaintiff, Don A. Allen Sr., currently gets a \$19,680 pension for 19 years' service as an assemblyman from Los Angeles. It will be \$92,100 for 1982 if the lawsuit succeeds.

Former Senator Luther Gibson's pension would shoot from \$19,060 to \$89,200. Many active and retired judges and congressmen — people who can expect sizeable second pensions — are among the plaintiffs. These include former Senator Edwin J. Regan, who is drawing a \$16,520 pension

while still serving on the state Court of Appeal in Sacramento. With a court victory, his pension would zoom to \$77,310 — \$4,910 more than his pay as a judge. Legislators with six years of service would have pensions exceeding the salaries of the current legislators.

The legislators' case is being handled by William Levit, a politically connected attorney who has had remarkable success in pension cases. The retirement system is represented by Donald Pach, a private attorney from Sacramento



who also handled *Betts*. Pach is arguing — unsuccessfully so far — that the legislators made a binding deal with the voters in 1966, and also that the legislators don't have the same constitutional contract protections as others, where pension rights are concerned, because they have the power to create or modify their own benefit terms. Pach won two major points in a separate trial on the suit filed by Younger, but this case also is on appeal.

Younger's fundamental argument is that he took office with Super Escalator, with all of its novel features, as a term and condition of employment. If his predecessors, Stanley Mosk or Tom Lynch, have a right to it, isn't his claim as strong or stronger? Younger's pension would be \$67,030 this year if he regains the full Super Escalator, \$63,500 if he just regains the "1954 catchup."

No one has even begun to figure how any of this affects two long-time members of the Board of Equalization — George Reilly and Richard Nevins. One of their colleagues, James Quinn, is drawing a \$57,130 pension — \$6,280 more than their salary of \$50,850. It is the most volatile of the Super Escalator pensions because Board of Equalization incumbents get raises every year, while the raises for other statewide officers occur less frequently. Under Super Escalator, both Reilly and Nevins are eligible now for \$107,638 pensions. (Reilly, 78, retired recently after almost 11 terms on the board.) The figure is much higher than Quinn's because they served the 24 years required to get a 50 percent bonus — a perk set up originally in 1969 for longtime Secretary of State Frank Jordan.

How could the court solve the problem of skyrocketing pensions? It could de-publish *Betts* and rule that the 1963 Super Escalator law is illegal. This would leave the 1966 law in effect and eliminate both the "1954 catchup" and escalation based on pay of current officeholders.

That might take an act of humility on the part of the court. But it would not be the first time that the justices reversed a case based in part on unforeseen consequences of a decision handed down by their predecessors.

The odd couple of polling: GOP's Wirthlin and Bentley

By BUD LEMBKE

Political pollsters are not ordinarily inclined toward flamboyance. They are usually soft-spoken types, fascinated by the application of computer-science advancements to their work and more cerebral than emotional.

Dr. Richard Wirthlin, 51, president of the nationally known, Santa Ana-based Decision Making Information firm and consultant to President Ronald Reagan, is typical of the breed.

And then there's Jack Bentley, who operates Western View-Point Research of Long Beach with his wife, Jeanette — and with other members of the family during the busy season. Bentley, 55, still wears a crew-cut and speaks in a growl that would remind movie buffs of oldtime actor Wallace Beery. Bentley punctuates his remarks with earthy expressions more appropriate to the barracks than the faculty club. His 1979 Volvo sports license plates that proclaim, "I Poll."

Wirthlin, Bentley and their respective firms offer distinct contrasts in size, contacts and style. But they also have something in common: Each has succeeded where others have failed in calling the results when the final poll is taken in the voting booth on election day.

Wirthlin's biggest triumph, prominently reported in magazines like *Time*, *Fortune* and *Newsweek*, occurred in 1980. As Reagan's deputy campaign manager in charge of planning and strategy, he found in his polls that Reagan was well ahead throughout the campaign. Then he correctly predicted the margin by which Jimmy Carter would be defeated. Other pollsters claimed it was close all along; they expected a squeaker at the end.

That accuracy gave Wirthlin's company — already one of the largest of its kind in the country — a big boost. DMI was once an appendage of a campaign-management firm jointly run by Stu Spencer and Bill Roberts. Since its 1980 success, DMI has nearly doubled the number of its full-time employees to 80. Fifty are at Santa Ana, the others are in expanded offices in Washington, D.C., in McLean, Virginia, and at a new phone interview office in Provo, Utah.

Off the mark

"The company has done extremely well," said Wirthlin in an interview at his Santa Ana office three weeks before the recent California primary. But DMI was to end up far off the mark in charting the finish of the Republican gubernatorial contest in that primary. Working for Lieutenant Governor Mike Curb's campaign, DMI found him leading Attorney General George Deukmejian in the home stretch. On the Saturday before election, a DMI "tracking" showed Curb ahead by 10 percentage points. Yet Deukmejian won, 51 percent to 45 percent.

Wirthlin's firm was not alone in its error. The *Los Angeles Times* poll, the Steve Teichner poll for Los Angeles television station KABC and Mervin Field's respected California Poll all had Curb leading by comfortable margins. However, the final samplings in those polls were taken a week or two

before the election. Wirthlin's last figures gave Curb more reason to start composing a victory statement than a concession speech. On the day after his defeat, the lieutenant governor told the *LA Times*, "I have no idea what happened."

Put on the defensive, the pollsters patiently explained once more: An opinion survey is only a snapshot of how the race stands at any particular moment. The tracking at intervals right up to election eve is aimed at detecting shifts. But who is to say that the surveys were not thrown askew by a last minute shift to Deukmejian, perhaps even on election day itself?

Pollster Field suggests that Wirthlin should not be blamed for missing the mark in a race "with such volatility and changes in the last two weeks." But one fellow disinclined to buy that explanation is Jack Bentley, of the "I Poll" license plates. Bentley called the June 8th election correctly. In addition to serving the 10 clients for whom his firm was surveying in congressional and local races (he was accurate on nine of the ten), Bentley decided to conduct unsponsored surveys of California's Republican contests for governor, U.S. senator, lieutenant governor and attorney general. He picked winners in each race.

Bentley conducted a so-called "benchmark" survey in April which showed Curb leading by a narrow margin. Then he followed up on the Saturday before the election. The followup sampling found Deukmejian leading by a 12-point margin. Bentley promptly phoned the *Sacramento Bee*, the *Los Angeles Times*, KABC-TV and the *Long Beach Press-Telegram* to get a little free pre-primary promotion for his findings. None saw fit to use his prediction of Deukmejian's win, although Martin Smith of the *Bee* gave credit where it was due in a post-election column. Smith also noted: "Bentley is a top-flight pollster. His surveys in the 1978 GOP gubernatorial primary caught the exact order of finish and reflected almost precisely the percentage each major candidate received."

'Pure hyperbole'

Bentley is not bashful about pointing to the fact that, along with Wirthlin, he predicted a Reagan landslide in 1980. "How anybody had trouble with that election, I will never understand," he says. Of his accuracy last June, he wrote in this preface to a reprint of all his figures: "Any assumption by political analysts or newswriters that all movement took place on the Sunday and Monday prior to the election, or that the Lakers' game had an impact, is pure hyperbole and rationalization in its finest form."

Bentley did have company in predicting Deukmejian's win. Lance V. Tarrance and Associates of Houston, Texas, polling for Deukmejian, showed its client passing Curb in the week before the election. Bill Roberts of the Dolphin Group, which managed Deukmejian, said the last-minute tracking by Tarrance had Deukmejian leading by 10 points on Friday night before the voting but falling to a 6 point lead Sunday night and to only a 1- or 2-point margin on election eve.

Why did the polls reflect such see-saw jumps throughout

the campaign? "My conclusion is that the public didn't know either candidate that well," says Roberts. "A TV barrage would boost first Mike, then George. Mike would send out a letter, and then George would do something. The public was not that much aware of either candidate."

Ken Khachigian, former chief speech writer for President Reagan and a principal consultant to Deukmejian in this year's primary, said the timing of a *Los Angeles Times* poll was significant in the outcome. That poll showed Curb with a 15-point lead two weeks before the election. The *Times* poll was taken just after delivery of a Curb mailer attacking



BENTLEY



WIRTHLIN

Deukmejian's credentials as a Reagan Republican and during a lull in Deukmejian TV and radio commercials, Khachigian says. "You can't run a campaign strictly on the basis of polling results or you'll be frozen," he adds. "In our case, Curb relaxed because he thought it was won."

Bentley has his own ideas of what happened in the Curb-Deukmejian race. "There were two basic issues separating them, outside of personalities — the Peripheral Canal (Curb against, Deukmejian for) and the proposed Rose Bird recall (Curb for, Deukmejian against)," he says. "My survey showed that those favoring the canal were just as likely to go with George as they were with Mike. It was the same with recall. Curb's issues were not sticking — they weren't emotional, like abortion, gun control or the nuclear freeze."

"And I don't think Curb's draft status or Deukmejian's attack on Curb for not being registered to vote until he was 29 were that important," Bentley adds. "The key was that they were both on the tube and when you looked at George Deukmejian, you saw more maturity."

Differing roots

Like Wirthlin, Bentley is a veteran in the business, but the two men spring from very different roots. Wirthlin came from academia, Bentley from the college of hard knocks.

Wirthlin is a devout (and therefore teetotaling) Mormon who was graduated from the University of Utah, received a doctorate from UC Berkeley, taught economics at several universities and drifted into polling while chairman of economics at Brigham Young University.

Bentley was converted to Catholicism six years ago, with state Senator John Schmitz and his wife, Mary, serving as godparents. He has been known to down a beer or two. Asked how Western View-Point Research got its name, he replied: "That's the name that emerges when three of you sit around drinking beer."

Wirthlin drifted into polling when, "almost as a lark," he accepted the invitation of a friend running for office to do a survey for him. "Our survey was distinguished by the com-

puter output which we generated," says Wirthlin. "That was in 1964. I thoroughly enjoyed it, and somehow our work became known to others in the political field. Both Republicans and Democrats came to us, but I realized there would be an eventual conflict of interest if I worked for both parties. I determined to work only for Republicans because I am a Republican."

He first met Reagan the month before DMI was founded in 1969, during Reagan's first term as governor. "Having come out of the Berkeley environment and considering myself a moderate Republican, I wasn't terribly enthused about Governor Reagan," Wirthlin recalls. "But I was so captivated with the man on meeting him (at Reagan's Pacific Palisades home) that I've been a very loyal supporter, from a personal point of view, ever since."

He is still president of DMI, but his fame as a pollster and his association with Reagan eventually forced Wirthlin to put distance, both geographically and administratively, from the Santa Ana arm of the business. He and his wife, Jeralie, and their eight children formerly lived in Whittier. However, his duties in Washington and a frantic travel schedule resulted in the family joining him last fall at a new home in McLean, Virginia.

Wirthlin is a White House consultant, along with two other pollsters, and he meets with President Reagan several times a month for a chat on what he has found at the grass roots. He also briefs some members of the Cabinet occasionally and does "ongoing surveys" for the Republican National Committee. His firm is doing surveys in 100 GOP campaigns across the country this year.

Although reserved in manner, Wirthlin can become enthusiastic in discussing such subjects as his firm's development of a huge data bank, or a subsidiary organization recently formed to assist corporations in coordinating computer operations. DMI has also devised sophisticated methods for testing the impact of political commercials before they are aired. Such methods are more reliable than the older technique of assembling a "focus group" of randomly selected voters to preview and comment on an ad for TV, Wirthlin believes.

Such electronic frontiers hold no great fascination for Bentley, whose firm has only seven full-time employees, plus 25 part-time interviewers (compared to DMI's 170). Bentley attended Long Beach City College and Southwest School of Law but never got a degree. He believes there is

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San Diego, KPBS-15, Fri. Sept. 3, 6 PM & 11 PM

Huntington Beach, KOCE-50, Wed. Sept. 22, 10:30 PM

San Bernardino, KVCN-24 Mon., Sept. 6, 7 PM

San Mateo, KCSM-60, Sun., Sept. 26, 6 PM

Eureka, KEET-13, Mon., Sept. 27, 9:30 PM

San Francisco, KQED-9 Sun., Oct. 17th, 5 PM

much to be said for smallness and simplicity in his business. "A lot of pollsters like to surround polling with an air of mystique," says Bentley. "It's no such thing! All it is is hard work, 10 to 12 hours a day, seven days a week — plus good personnel and knowing the area."

After bouncing around in several jobs, including insurance adjusting and working in a drug store, ("nice hours but no money"), Bentley began his career in polling in 1964, working for Don Muchmore, who then ran a Long Beach campaign management business along with his still-existing survey firm, Opinion Research. Bentley began in Orange County "with a clipboard, at \$1.75 an hour."

He ventured on his own in 1969, while his wife Jeannette kept the household bills paid by holding on to her job as a dental hygienist and supervised survey interviews on the side.

Although Bentley emphasizes that he is a conservative — "there's no b.s. about that" — his first political surveys were for Democrats Al Song and Mervyn Dymally. "Members of my own (Republican) party said, 'Oh, you're working out of your home. When you get big, look us up,'" recalls Bentley.

"These guys (then-state Senator Song and Lieutenant Governor Dymally) were willing to take a gamble, and they won four of the five races in which I surveyed."

Learning from the Democrats

Gradually, he switched to specializing in polling for Republicans, but he feels he learned "a helluva lot about districts" from working for Democrats in racially mixed areas. He says the lessons could not have been learned in solidly Republican districts, which tend to be more homogenous.

"I hear pollsters and consultants talking about 'the black area,'" says Bentley. "Their idea of a black area is Watts. I want to know where it is. You can go to southern Alameda County and pick up some conservative blacks. Inglewood's the same. They're homeowners with well-kept yards, and if you ask 'em the major problem, they'll say, 'It's the punk kids!'"

Bentley picks the areas to be sampled and analyzes the results. Jeannette, having given up her career as a dental hygienist, is in charge of hiring and monitoring the interviewers. Most of them work out of Western View-Point's small office building in Long Beach's Lakewood Village section, where the Bentleys have also lived for 25 years in the same three-bedroom tract house.

They have a daughter, Jan Fawcett of Diamond Bar, who still assists in the interviewing and a son, Jon, a faculty member in computer science at Carnegie-Mellon University in Pittsburgh, who handles computer work for the polling. "I'm okay at math, but if I want to make damned sure I'm right, I call our son," smiles Bentley.

Cal State Long Beach students provide a prime source of interviewers. They make \$3.50 an hour to start but can reach \$8 an hour if they're experienced and speedy. Interviewing is done largely by telephone these days, because face-to-face visits in homes are more costly and can be hazardous.

"There's an old data-processing saying: 'Garbage in, garbage out,'" says Jeannette Bentley. "That starts with the interviewers. They need to be like robots, neither approving nor disapproving of anything the respondent might say. Even if filthy language is used about a candidate, they have to just write it down and keep going."

"We don't have to do a vast amount of hiring because people stay with us so long. Students continue after they graduate. We have a kid who has his master's, who started with us right out of high school, and now he's out in the business world. He works weekends for us, for the extra income."

Western View-Point, competing with about 15 other California-based pollsters, has grown steadily and has done surveys as far east as Pennsylvania. The firm grossed \$1 million last year. Bentley claims \$1.5 million a year is the ceiling beyond which he would turn down business. "I'd have to start bringing in people who would be project directors," he says. "I'd get too big, and I don't want to sacrifice quality."

Without even taking any more polls, Bentley has some horseback guesstimates about California's November election that may raise Democratic eyebrows. Unlike many others, he does not expect it to be a year of unusual opportunity for the Democrats. "Deukmejian is going to clobber (Tom) Bradley," he predicts flatly. "Bradley's record in LA is a nice neutral record, but he has failed to take stands when he should have. I think it's going to come back to haunt him."

"As for the U.S. Senate race, I've never seen (Pete) Wilson campaign better. He looks so different than he did in 1978, and from work that we have done, (Jerry) Brown has screwed up. He's screwed up on Proposition 13, on appointments — but ironically, the thing that's going to come up and bite him on the ass will be the goddamned Medfly." 

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The independent mood of the California voter

By TONY QUINN

Democratic state chairman Nancy Pelosi awakened one morning last January with a real problem. The party registration figures just compiled showed her Democratic Party with 52.7 percent of the state total, a 48-year low. Not since 1934 had there been fewer registered Democrats in California.

Was the Reagan revolution now at hand? Was this a sign of fatal decline for the Democrats? Not really. Those same figures showed the Republican Party, with 35 percent of the voters, near its all-time low as well. But the party registration figures do tell a big story: The people of California are busily rejecting both of their major political parties.

Pelosi embarked on a \$1.5 million voter-registration program to lift the Democratic percentage, and Republicans have mounted their own voter-registration drive this summer. But as in the past two years, the biggest 1982 gain of new voters, on a percentage basis, has been among the non-partisans — those who refuse to align themselves with either party.

The non-partisan voters, who register "decline to state," miss out on all the fun of choosing party nominees in the primary. But that seems a small price for the thousands of new voters who don't want to take their stand with either major party.

Voter registration as of the June primary stood at 52.8 percent Democratic and 34.9 percent Republican, but 12.3 percent were either aligned with a minor party or "declined to state." Just 10 years ago, in the 1972 primary, 56.4 percent were Democrats, 37.3 percent Republicans and only 6.2 percent were outside the mainstream of the two major parties.

This growth of the minor and non-partisan registrants is not the whole picture. What is really happening is a slow but unmistakable rejection of both of the major parties. California is going backward; it is returning to the kind of non-partisan alignments that once dominated the California political landscape.

California's party balance was pretty well set by the late 1930s, with the Democrats enjoying a hefty registration bulge. However, Democratic victory at the polls was not guaranteed. Republicans had a nifty device known as cross-filing which allowed GOP candidates to run in and win Democratic nominations, and they regularly succeeded at this. In 1946, for instance, popular Governor Earl Warren not only won his own Republican nomination but defeated the Democratic attorney general, Robert Kenny, to win the Democratic nomination too. Cross-filing regularly allowed strong incumbents to win re-election in the primary.

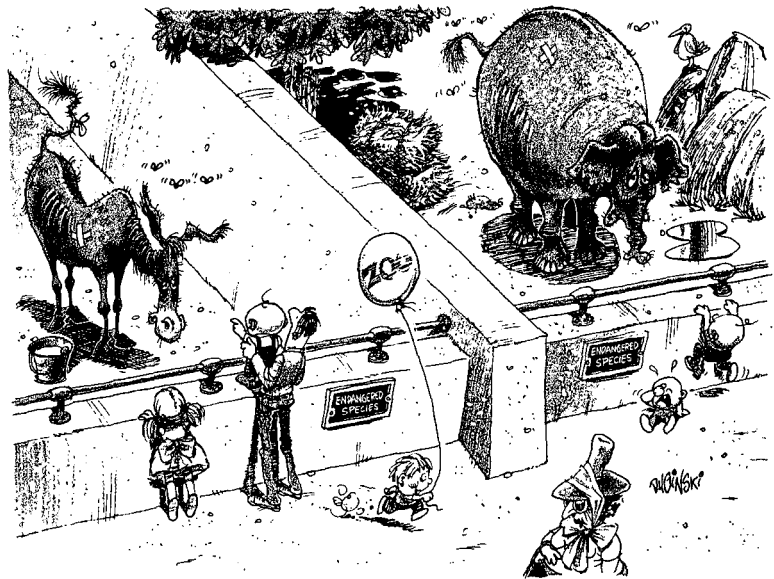
Goodbye, cross-filing

When the Democrats finally took control of state government in 1953, they couldn't abolish cross-filing fast enough. It seemed finally that party registration would dictate po-

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litical results. To a large degree it has: Strong Republicans like Ronald Reagan have been able to win in California only by eating into the Democratic constituency, especially among conservative blue-collar and rural voters. Since 1958, Republicans have had a majority in the Legislature for only two years — and they never have won a majority of congressional districts.

Political strategists are quick to note that most Californians vote their party for the lower partisan offices — for



Congress, state Senate, and Assembly — except in the case of a particularly strong incumbent who can attract a large cross-over vote. As a rule of thumb, Democrats need a 55 percent registration edge to feel safe in a district; Republicans can almost always win a seat with more than 40 percent of their registrants. There tends to be more Democratic than Republican disloyalty at the bottom of the ticket.

So it was particularly bad news for Republicans when a combination of Watergate and the 18-year-old vote suddenly caused their share of the registration to plummet from roughly 40 percent of the statewide average to the middle 30s. From 1971 through the 1976 election, GOP registration fell every two years, and Republican fortunes dropped with it.

Republicans hit rock bottom in 1976, with less than 35 percent of the state's voters, while the Democrats enjoyed 57.4 percent. That year, only 23 of the 80 Assembly seats were held by Republicans.

Then along came Howard Jarvis. While much has been written about the tax revolt's impact on state finances, it also fell like a brick on the partisan balance in California. The Republican "Proposition 13 babies" moved into the Legislature in 1978, and the Democratic Party leaders' failure to respond to the middle-class tax outcry from their own ranks produced serious damage to the party's structural base. From over 57 percent in January 1977, the Democratic share of state registration fell to less than 53 percent

by January 1982 — exactly the same-sized drop Republicans had suffered during Watergate, and in exactly the same amount of time. Democratic misfortune was not, however, an upswing for the Republicans; their registration has stayed right where it was, at 35 percent, during the five-year period.

The tax revolt may have induced some people to vote Republican, but it did little to increase numbers of Republicans in the state. Its unmistakable impact on the Democrats, however, was a significant loss of party loyalty.

The Democratic registration drive this fall, which promises to be one of the most massive in the state's history, is really an attempt to recoup the losses of the past five years. As Democratic registration falls towards 50 percent, the necessary cushion of loyal voters gets smaller and smaller. Democrats can no longer afford to have 10 to 20 percent of their voters wandering off to vote for Republican candidates.

The Democratic registration drive will be concentrated on minority neighborhoods and on campuses, their most loyal constituency, where they feel confident adverse reaction to Reaganomics will yield a hearty bundle of new voters.

The non-partisan drift

It's the new voters who tell the story of where California is going politically. And it is here where the drift to non-partisanship is most pronounced. Between 1978 and 1982 more and more new voters opted to register "decline to state," and each year the percentage of non-partisans has risen. This represents the pattern of choice of people who have moved, voters just turning 18 and migrants into California.

The independent trend is similarly evident when people are asked to define themselves politically. Lance Tarrance and Associates of Houston made a statewide survey of the California Republican Party in April, asking people which party they relate to. About 36 percent said they were Democrats; 32 percent called themselves Republicans, and another 32 percent refused to be classified. Most of the latter group registered with one of the two major parties but they said they no longer identify with that party.

The Tarrance poll also asked people how they usually vote. Here 44 percent said Democratic; 37 percent said Republican, but 18 percent tagged themselves as ticket-split-

ters. The percentage of ticket-splitters and non-partisan voters runs much higher than the actual percentage of "decline-to-state" registrants. But it is close to the percentage of new voters who choose to register "decline to state," suggesting that this is the actual political makeup of California.

Little is known about the voting proclivities of the "decline-to-state" registrant. Since no one runs for office as "decline to state," this voter ultimately must choose between the parties. Some evidence, though, suggests that the non-partisan voter is gumming up the works even more by refusing to make that "either-or" choice.

California's small Libertarian Party, which came into being as a rejection of the two major parties, conducted a study of a state Senate special election in Santa Clara County in 1980. The party made a major effort in that election to gain votes for the Libertarian candidate, and they were able to determine the party registration of those persons who voted Libertarian. Not surprisingly, the Libertarian vote came mainly from non-partisan registrants who had carried their rejection of the two major parties right into the voting booth. Only about one-quarter of the vote came from registrants of the major parties; among them, nearly twice as many Democrats voted Libertarian as did Republicans.

Party loyalty has been a major problem for Democrats for years. Since Watergate, Republicans have had defection problems, too. But the Libertarian study suggests that when third parties take votes from the major two, the Democrats lose more than the GOP.

But there is another side to this coin: What happens when there is no third-party candidate on the ballot? No one is certain how the non-partisan voters behave when forced to choose between the parties. But with 12 percent of all registered voters and nearly 20 percent in some districts, the non-partisan category is now a force to be reckoned with.

The registered non-voters

The Democratic and Republican registration drives this summer have really aimed at reducing the power of the non-partisan voters. Democrats believe that an aggressive registration campaign can lift their share of the total back to the 56 percent they enjoyed just four years ago. But for all their efforts this spring, Democratic registration rose just one-tenth of 1 percent. It is unlikely the fall drive will net anything close to the 56 percent goal.

Democrats have another problem: Their new registrants don't turn out on election day. This spring they launched a big drive in east Los Angeles among Hispanic voters. But despite a hot state Senate primary, turnout in east Los Angeles was lower for this primary than in 1978 or 1980, suggesting the Democrats loaded the voter rolls with people who did not vote on election day.

Republicans may have more luck with the turnout this fall, because they will concentrate in areas of suburban growth. Still it is likely the overall Republican share of the voter pool will fall between now and November. Democrats may increase their percentages slightly, but if the spring primary is any indication, they are wasting their time. Indeed, Democratic turnout in the June primary was at an all-time low, with one-half million fewer voters than in 1978.

The one group showing a significant increase in voters in the past year has been the "decline-to-state" category, particularly in those areas of the state where neither major party made a registration effort.

And in terms of actual voting behavior, this independent ticket splitter is more crucial to electoral outcome than ever before. Before this decade is out, the non-partisan voter may pass the Democrats and the Republicans to become the controlling political force in California, at least in terms of impact at the ballot box if not in registration figures. 🏠

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The defeat of the Peripheral Canal proposal on the June ballot far from ended the California water war. Where does the state go from here? One opinion is expressed in the following article by Antonio Rossmann, a San Francisco lawyer whose clients include Inyo County, which is attempting to preserve its groundwater supply, and the Tejon Ranch Company, which is attempting to secure new supplies for development purposes.

By ANTONIO ROSSMANN

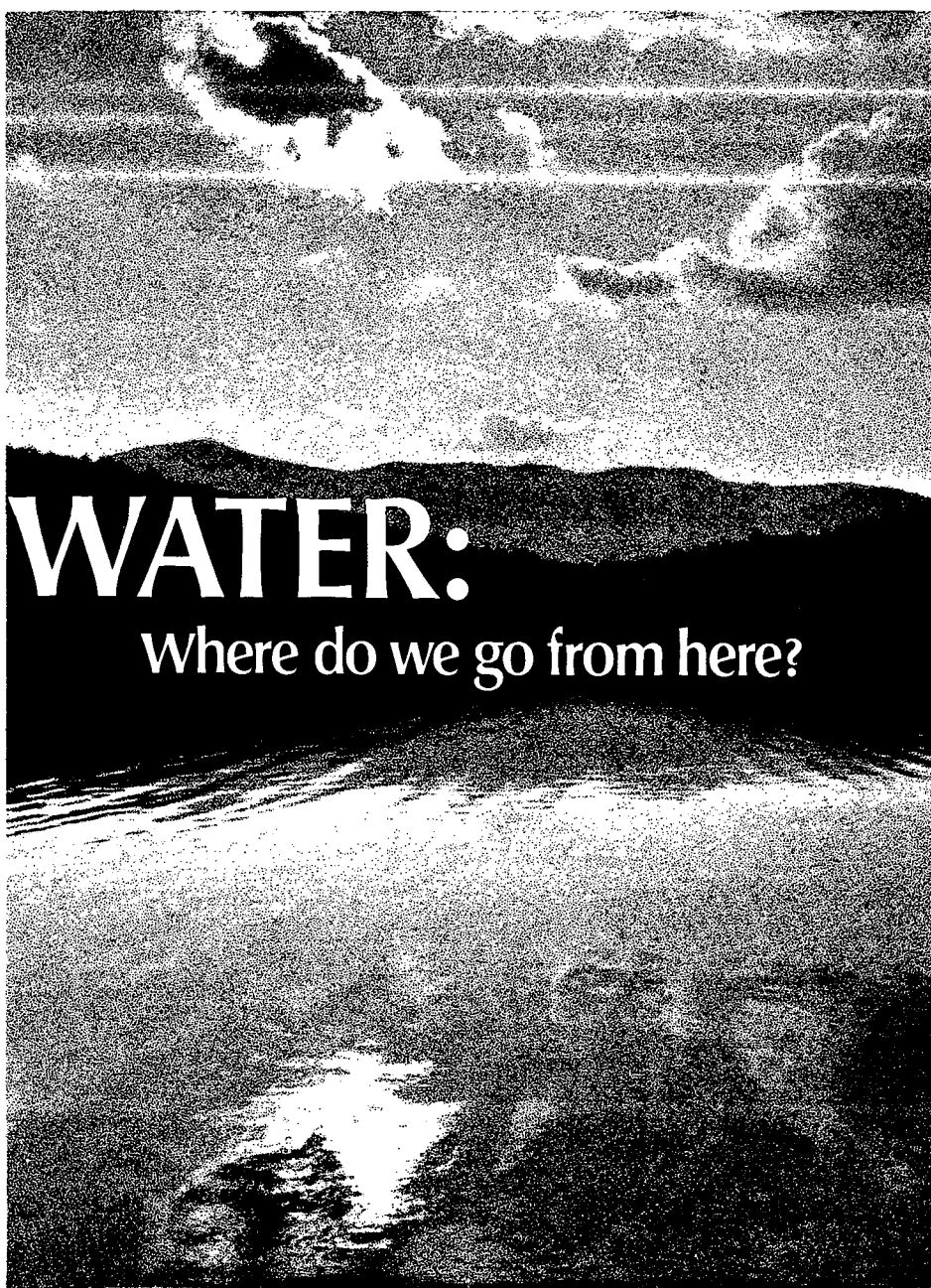
California voters made history by their forceful rejection of Proposition 9, the Peripheral Canal referendum. For the first time in this century, the California electorate has rejected a major water development project.

The pollsters inform us that the largest factor in most voters' minds was cost. If this premise is correct, then this election marks a turning point in our political history. Californians, even Southern Californians, have recognized that "growth" does cost something and have made a conscious decision not to sponsor growth at the tremendous cost of a promised new water supply.

The voters have not, however, resolved fundamental issues of California water policy or of the state's resource and economic development. Surely by the time a new governor and Legislature are seated in Sacramento next year, the forces of both development and preservation will contest anew the question of California water. This conflict will re-emerge because of two undeniable facts: We remain capable of extracting our remaining resources more efficiently, thereby providing a choice as to how and when to make new water available; and in the near future, if not now, legitimate needs for this water can be identified in California's relatively dry urban and agricultural precincts.

As an individual, I am not the best qualified to advise what form of additional plumbing, if any, we should add to our existing water establishment. As an attorney who chaired the State Bar debates on the Peripheral Canal, however, I can fairly recommend that the state must resolve several institutional issues before it can securely sponsor another major water project.

The unanswered questions outlined here led to my own painful decision — not reached until the last two weeks of the campaign — to vote against the canal. The agony of that decision flowed from deliberately



foregoing the clear advantages of Proposition 9: a potential physical improvement in the stability and environmental quality of the Sacramento Delta and San Francisco Bay; a significantly increased legal protection for the North Coast wild rivers, and for the delta's and bay's water quality; the savings (through more efficiently channeled water through the delta) of water that must now be released to combat salt water intrusion; the availability of this new supply to alleviate serious water problems in other parts of the state; and a mandate to complete the state's water plan with certainty of commitments and results.

Even Proposition 9's great advantages, however, and the good faith of the

state officials who proposed it, could not stand up against its deficiencies. Let water developers and conservationists, therefore, unite in addressing the following issues before asking the voters again to underwrite a significant reallocation of California's water resources.

OPINION

- **Data and experience.** Although the Peripheral Canal appeared capable of actually improving the flow of water in the delta without having to build additional dams or extracting new resources, many respected hydrologists questioned whether the state knew enough of the delta's fluid mechanics and ecology to predict ac-

curately the canal's impact. Therefore, first of all, we need a valid and widely accepted data base from which to make predictions. Similarly, major mitigation measures such as the proposed fish screens in the delta must enjoy more than the conceptual acceptance that they received from some experts, and which they never earned from many rational skeptics in the scientific community.

● **Participation of the federal government in maintaining state water quality standards.** Although the federal compliance issue received slight public attention in the Proposition 9 debate, in actuality it emerges as one of the most troubling questions in contemporary California water operations. Can the federal government ignore state water-quality standards in pumping from the delta for the federal Central Valley Project? At present the federal government disclaims any duty to adhere to state water standards, and the courts have not completely resolved this issue. If the massive federal project can be operated without constraint of state law, then state water supplies alone must be increasingly devoted to maintaining ecological balance in the delta. Before we make it possible for even more water to be extracted from the north or from the delta, we need a surety that the federal government will not take so much water as to render it impossible or extremely costly to maintain state water quality.

● **A more equitable cost policy.** Had the State Water Project been augmented by the supplies of the Peripheral Canal, it would have been paid for largely by Southern California's potential users. The water itself, however, for at least two or three

decades would have been primarily used in Kern County at a dramatically subsidized price. The subsidy would have been paid by Southern Californians as a cost of insuring "entitlement" to their share of the water when their needs eventually materialized — perhaps not until the 21st century.

While there is nothing inherently evil about applying surplus water to Kern agriculture with adequate controls, the election results show that many Southern Californians do not want to pay for water that they are not presently using — and certainly do not want to subsidize the use of that water in another part of the state. The pricing mechanisms of the existing contracts between the state and its water suppliers must therefore be modified to provide that the real cost of water is attributed to its users, both presently and into the next century.

● **Institutional water reform.** Although Proposition 9 included specific protections for the delta and wild rivers, it did not embrace the comprehensive water-law reform recommended in 1978 by the Governor's Commission To Review California Water Rights Law. At present, no state law requires groundwater management in overdrafted basins, and no specific statute enforces a requirement for conservation of existing supplies as a prerequisite to extraction of new resources. Without these missing ingredients, water will continue to be used unwisely and expensively. We simply won't be applying our best tradition of "making the most of what we've got." (The Water Resources Initiative which has qualified for the November ballot includes these measures.)

● **Restraint and stewardship.**

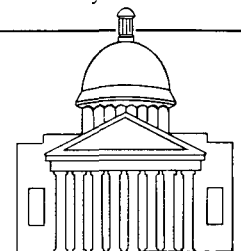
The greatest hurdle to extraction of future supplies from north to south is that of mistrust. The fact that more than 90 percent of the electorate north of Santa Barbara rejected the canal amply reveals a decisive popular finding that Southern California water practices and policies are not satisfactory. The hard evidence regrettably supports this deeply felt attitude. Los Angeles, in the face of severe censure by state officials and public opinion, continues to exacerbate the distress of the Owens Valley and Mono Lake. Neither the Los Angeles Department of Water and Power (LADWP) nor its Metropolitan Water District (MWD) offered to mitigate this harm if Proposition 9 were enacted to make new supplies available.

Southern California's insensitivity is indicated by the reluctance of its political leaders to recognize that water constitutes a constraint on expansion in their semi-arid region. These officials should plan their communities with an attitude of trusteeship toward the precious resources needed to sustain them.

Resolution of this final issue — stewardship — will obviously require the greatest human efforts of perception, empathy and change of fundamental attitude. But the wisest leaders of Southern California will be those who recognize that Northern Californians can unite in a 90 percent vote to enforce this change of attitude, and that their fellow southerners (altruistically as well as practically) will demand it. These leaders will also be the ones who survive — and who give effect to the reality that our state is a single entity, whose waters must be conserved and shared by us all. 



Out With The Old, In With The New



In January, many people who were appointed by Governor Brown to jobs outside the competitive civil service and to boards and commissions will be leaving, either voluntarily or involuntarily. They will be replaced with the political appointees of the new Governor.

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Reagan: act four

When Ronald Reagan became governor of California, one of his first acts was to push through a record tax increase to overcome a revenue shortfall he inherited from his predecessor, Democrat Edmund G. (Pat) Brown. Reagan, however, overshot the mark and piled up far more receipts than the state needed. For the next seven years, Reagan's tax hike produced so much income that his administration was able to ladle back a good chunk of it in tax rebates and property tax relief. Even after he left office, the state treasury continued to bulge with Reagan's taxes until well after Proposition 13, when Sacramento still had a multi-billion-dollar budget surplus to bail out local governments for a couple of years.

REAGAN'S AIM AS A TAX DRAFTSMAN was no better when he got to Washington. Last year, he rammed through the biggest tax cut in American history. But he again pitched wild and missed his target. Tax reductions for individuals and businesses were so massive that Reagan now is saddled with record deficits running well over \$100 billion a year. Somehow, his gamble with supply-side economics — that sharp tax cuts would trigger an economic boom — failed to pay off. With deficits pushing interest rates to unbearable levels, Reagan was forced to retreat. The 1981 tax-slasher became the 1982 tax-booster. At first reluctantly, then with increasing determination, the president pushed for enactment of the biggest peacetime tax increase — a measure that would erase a quarter of last year's tax cut and take back a full third of the tax benefits he conferred on business in 1981.

The political fallout from changing his course on taxes, however, has not been as benign as in California. There, Reagan managed to mask his first-year goof of overtaxing and instead kept public attention focused on his subsequent tax-reduction record. During his 1976 and 1980 presidential campaigns, he repeatedly boasted of the billions of dollars he had returned to California taxpayers. The fact that he had nicked them too much in the first place never entered the picture.

This time, Reagan has not been so lucky. Conservative Republicans, business interests and supply-side enthusiasts like New York Congressman Jack Kemp are in full revolt against the White House. They are shocked to see a president dedicated to dismantling the federal government turn around and join in what they consider the age-old Washington pastime of taxing more so the government can spend more. Reagan suddenly found himself fighting against some of his staunchest ideological cohorts. To pick up votes for the \$99 billion tax-hike bill, he was forced to rely on Democratic support, including many liberals, and to use some rough tactics against recalcitrant Republicans on Capitol Hill.

The topsy-turvy spectacle was reflected in the Senate race in California, where Republican Pete Wilson broke with Reagan while Democrat Jerry Brown sided with the president. Democrats enjoyed the spectacle immensely. House Speaker Thomas (Tip) O'Neill gleefully invited Reagan to address a joint session of Congress so the president could fully and publicly recant the errors of Reaganomics.

Reagan's predicament is largely self-made — the product of his ideological zeal. When he got to the White House, he

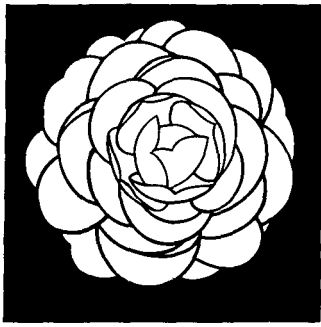
wanted to do it all — cut taxes dramatically, boost defense spending and balance the budget. There were, of course, skeptics from the start. When John Anderson, a Republican who ran as an Independent for president, was asked in 1980 how Reagan would manage to do all those great things at the same time, he replied: "With mirrors." Vice President George Bush, before joining the Reagan ticket, called it "voodoo economics." In Congress, Republican leaders had similar doubts but went along last year when Reagan still charmed the socks off the country. Senate GOP Leader Howard Baker, after pushing through the big Reagan tax cut, crossed his fingers and described it as a "riverboat gamble."

Then, starting last fall, the bloom was off the rose. As budget deficits soared, Wall Street got the jitters and turned bearish on Ronald Reagan. When the president sent Congress a 1983 budget with more than \$90 billion of red ink, he couldn't pick up a single vote for it. Instead of going back to the drawing boards, Reagan sat back, issued Panglossian predictions that all would turn out well, and let Congress take over direction of economic policy. Senate Republican leaders eagerly moved into the vacuum. Budget Chairman Pete Domenici of New Mexico and Finance Chairman Bob Dole of Kansas fashioned their own fiscal blueprint, including a sizeable turnback of tax cuts enacted only a year earlier.

When Reagan endorsed the package to allay deficit fears in the financial markets, his heart really wasn't in it. "It's like holding your nose and embracing a pig," he remarked. But once launched on this path, he had to perfume the product as much as he could and use the full authority of the White House to sell it. He argued his basic tax cuts remained intact and that he was really plugging loopholes and forcing tax-avoiders to contribute a fair share. The true believers in Reagan's conservative coalition, however, were not persuaded. Many Republicans in the California delegation, including such staunch conservatives as John Rousselot, Bill Dannemeyer and Dan Lungren, lined up against the president.

THE FIGHT QUICKLY turned nasty. Kemp and other supply-siders said Reagan was lapsing into Hooverism and committing the ultimate folly of raising taxes in a deep recession. Lyn Nofziger, a long-time Reagan political aide who had formed his own consulting firm for well-heeled clients in search of access to the administration, briefly joined the anti-Reagan cabal. He was quickly taken to the woodshed, confessed his error and went to work pulling strings for the tax increase. Nofziger said his initial impulse to oppose Reagan was mere stupidity — an explanation that satisfied neither friend nor foe. As the rift in GOP ranks widened, the White House even threatened some of its erstwhile friends with loss of campaign support.

Many Reaganites are horrified to see the president team up with Bob Dole, a Reagan presidential rival in 1980, against one of their own rising stars, Jack Kemp. This is not just a fight for the ideological soul of the Republican Party. With both wings of the party looking on Reagan as a weakened president, it's also the beginning of the battle for the succession.



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